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SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM BEAUFORT COUNTY
Carmen T. Mullen, Circuit Court Judge

Appellate Case No. 2026-001061
Civil Action No. 2025-CP-07-00873

In the Matter of: George Francis Niesar (Decedent),

Gerald Viglione Niesar, Individually and as Personal
Representative of the Estate of George Francis Niesar, Appellant,

v.

Christine Nemeth, Respondent.

RECORD ON APPEAL

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INDEX

Orders, Judgments & Other Court Communications

Order Removing Formal Proceedings to Circuit Court, April 3, 2025.....	3
Final Order Granting Appellant's/Plaintiff's Motion for Summary Judgment, December 31, 2025	5
Order Granting Respondent's/Defendant's Motion to Reconsider and Reversing Final Order Granting Appellant's/Plaintiff's Motion for Summary Judgment, March 10, 2026	20
Order Denying Appellant's/Plaintiff's Motion to Reconsider, April 21, 2026	24

Pleadings

Appellant's/Plaintiff's Second Amended Complaint with exhibit (District Court), April 25, 2024	27
Respondent's/Defendant's Answer to the Second Amended Complaint with Affirmative Defenses and Counterclaims (District Court), May 7, 2024.....	40
Appellant's/Plaintiff's Summons and Complaint with exhibit, December 6, 2024	44
Respondent's/Defendant's Answer and Counterclaim, March 11, 2025.....	57
Appellant's/Plaintiff's Reply to Respondent's/Defendant's Answer and Counterclaim (Probate Court), April 8, 2025.....	60
Appellant's/Plaintiff's Reply to Respondent's/Defendant's Answer and Counterclaim (Circuit Court), April 29, 2025.....	66

Motions, Supporting Memoranda & Other Filings

Respondent's/Defendant's Motion for Summary Judgment with exhibits (District Court), February 8, 2024	71
Appellant's/Plaintiff's Motion for Summary Judgment with exhibits, May 6, 2025	101
Respondent's/Defendant's Return to Appellant's/Plaintiff's Motion for Summary Judgment with exhibits, October 7, 2025.....	150
Appellant's/Plaintiff's Memorandum in Support of Motion for Summary Judgment with exhibits, October 24, 2025	159

Respondent's/Defendant's Motion to Reconsider Final Order Granting Appellant's/Plaintiff's Motion for Summary Judgment with exhibits, January 6, 2026.....	230
Respondent's/Defendant's Amended Motion to Reconsider Final Order Granting Appellant's/Plaintiff's Motion for Summary Judgment with exhibits, January 26, 2026	239
Appellant's/Plaintiff's Memorandum in Opposition to Respondent's/Defendant's Motion to Reconsider with exhibit, January 26, 2026	245
Respondent's/Defendant's Return Memorandum to Appellant's/Plaintiff's Memorandum in Opposition to Respondent's/Defendant's Motion to Reconsider, January 29, 2026.....	270
Appellant's/Plaintiff's Motion to Reconsider and Supporting Memorandum, March 18, 2026	272
Respondent's/Defendant's Reply to Appellant's/Plaintiff's Motion to Reconsider and Supporting Memorandum, March 26, 2026.....	281
Transcripts	
Transcript of Hearing on Appellant's/Plaintiff's Motion for Summary Judgment, October 28, 2025.....	283
Transcript of Hearing on Respondent's/Defendant's Motion to Reconsider Final Order Granting Appellant's/Plaintiff's Motion for Summary Judgment, January 14, 2026.....	299
Other	
Respondent's/Defendant's Offer of Judgment (Circuit Court), March 26, 2026	319
Appellant's/Plaintiff's Notice of Appeal with exhibits, April 30, 2026	321

STATE OF SOUTH CAROLINA
COUNTY OF BEAUFORT

IN THE MATTER OF ESTATE OF
GEORGE FRANCIS NIESAR:

CHRISTINE NEMETH,
Petitioner,

v.

GERALD V. NIESAR, CATHERINE NIESAR
HEFT, and ERIC NIESAR
Respondents.

GERALD VIGLIONE NIESAR, individually and as
Personal Representative of the
Estate of George Francis Niesar,
Petitioner,

v.

CHRISTINE NEMETH
Respondent.

IN THE PROBATE COURT
CASE NO. 2023ES0700417

2025 CP0700873

2025 APR -3 PM 3:15
JERRI ANN ROSEHEAD
BEAUFORT COUNTY, S.C.
CLERK OF COURT

ORDER REMOVING
FORMAL PROCEEDINGS
TO CIRCUIT COURT

WHEREAS, *under S.C. Code Ann.* ("Code") §§ 62-1-302(d)(3) and (5), formal proceedings involving (1) title to property in which the Estate of a decedent asserts an interest and (2) an action in which there is a right to trial by jury and in which the amount in controversy is at least five thousand dollars (\$5,000.00) in value must be removed from the Probate Court to the Circuit Court to proceed *de novo*, on motion of a party, made not later than ten days after the date on which all responsive pleadings must be filed in the actions; and

WHEREAS, on December 6, 2024, Gerald Viglione Niesar, individually and as Personal Representative of the Estate of George Francis Niesar ("Gerald") filed a Summons and Complaint ("Gerald Complaint") to commence the second action captioned above, asserting causes of action for conversion, breach of fiduciary duty, liability as Executor de son tort, disgorgement, restitution, and the imposition of a constructive trust; and

1


WHEREAS, in the above proceeding, less than ten days has elapsed from the date on which all responsive pleadings are required to filed; and

WHEREAS, previously on January 23, 2024, Christine Nemeth filed a Summons and Petition for Formal Testacy and Appointment (“Christine Petition for Formal Testacy and Appointment”) to commence the first action captioned above, seeking probate of a will of Decedent and appointment of a general personal representative of Decedent’s estate; and

WHEREAS, under Code § 62-1-302(f), if an action described in § 62-1-302(d) is removed to the Circuit Court by motion of a party or by the Probate Court on its own motion, the Probate Court may, in its discretion, remove to the Circuit Court any other related matters which are before the Probate Court, if the Probate Court finds that the removal of such related matters would be in the best interest of the estate or in the interest of judicial economy; and

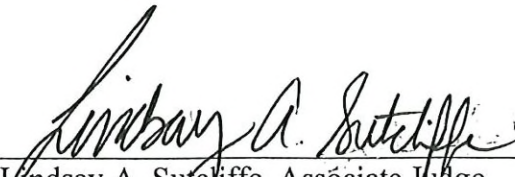
WHEREAS, this Court has determined to remove to the Circuit Court the actions commenced by the Gerald Complaint as well as the Christine Petition for Formal Testacy and Appointment, respectively, under Code §§ 62-1-302(d)(3) and (5); and

WHEREAS, this Court finds that these formal proceedings are sufficiently related, and it would be in the best interest of the estate and in the interest of judicial economy for all such actions to be litigated in the same judicial forum; now, therefore, pursuant to Code §§ 62-1-302(d)(3) and (5) and (f), it is

ORDERED that the two actions captioned and described above be and are hereby removed to the Circuit Court for proceedings *de novo*. This Probate Court retains continuing exclusive jurisdiction over the administration of this Estate.

AND IT IS SO ORDERED.

FILED
2025 APR 3 PM 3:06
Beaufort, South Carolina
APR 3 2025
PROBATE COURT
BEAUFORT COUNTY, SC


Lindsay A. Sutcliffe, Associate Judge
Beaufort County Probate Court

2 / 

STATE OF SOUTH CAROLINA	)	
	)	
COUNTY OF BEAUFORT	)	IN THE COURT OF COMMON PLEAS FOURTEENTH JUDICIAL CIRCUIT
IN THE MATTER OF:	)	Case No. 2025-CP-07-00873
GEORGE FRANCIS NIESAR	)	
(Decedent)	)	
	)	
GERALD VIGLIONE NIESAR,	)	FINAL ORDER GRANTING
Individually and as Personal Representative of	)	PLAINTIFF'S MOTION FOR
the Estate of George Francis Niesar,	)	SUMMARY JUDGMENT
	)	
Plaintiff,	)	
	)	
vs.	)	
	)	
CHRISTINE NEMETH,	)	
	)	
Defendant.	)	
	)	

This matter comes before the Court on a motion filed by Plaintiff Gerald Viglione Niesar ("Plaintiff") on May 6, 2025, seeking summary judgment on all of Plaintiff's claims ("Motion for Summary Judgment"). The Court has carefully reviewed the parties' filings and the arguments of counsel at the hearing on October 28, 2025. Having considered all arguments and submissions, the Court grants Plaintiff's Motion for Summary Judgment in its entirety for the reasons stated below.

INTRODUCTION

This dispute involves claims brought by the estate ("Estate") of Decedent George Francis Niesar ("Decedent" or "George") against an alleged debtor of the Estate, the Decedent's ex-wife, Defendant Christine Nemeth ("Nemeth"). Plaintiff is Decedent's brother and, as Personal Representative of his Estate, seeks damages arising from Nemeth's alleged wrongful retention of half of the proceeds from the sale of real property owned by Nemeth and Decedent. Plaintiff

asserts that after Decedent's death, Decedent's Estate had an ownership right to half of the proceeds of the sale of the property because when Decedent and Nemeth divorced in 2007, their joint tenancy with rights of survivorship in the Property severed. It is undisputed that Nemeth sold the property after Decedent's death and did not share any of the proceeds from the sale of the property with the Estate. Plaintiff now seeks to recover from Nemeth those wrongfully converted assets that belong to Decedent's Estate.

BACKGROUND

Decedent married Nemeth on March 29, 1989. (Exhibit A to Plaintiff's Memorandum in Support of Motion for Summary Judgment ("Pl.'s Exhibit A") at 2, 19; Compl. ¶ 6; Ans. ¶ 2). During their marriage, Decedent and Nemeth purchased the property known as 1105 Bluffton Parkway, Bluffton, South Carolina 29910, with Beaufort County Tax Map Parcel Numbers R600-029-000-0034-0000 and R600-029-000-011A-0000 (the "Property") as joint tenants with rights of survivorship. (Pl.'s Exhibit B; Compl. ¶ 8; Ans. ¶ 2). There was no mortgage on the Property. (Compl. ¶ 8; Ans. ¶ 2). Nemeth filed for divorce on May 7, 2007, and the Final Order of Divorce was issued by the Beaufort County, South Carolina Family Court on July 18, 2007. (Pl.'s Exhibit A; Compl. ¶ 9; Ans. ¶ 2). Nemeth admits the Final Order of Divorce does not reference the Property at all. (Pl.'s Exhibit A; Defendant's Return to Plaintiff's Motion for Summary Judgment ("Return") ¶ 6).

On September 3, 2022, Decedent and Nemeth entered into a contract ("Contract of Sale") to sell the Property to the Beaufort County School District ("BCSD") for \$886,000, with a closing date of October 31, 2022. (Pl.'s Exhibit C; Compl. ¶ 14; Ans. ¶ 2). Through several emails on or around October 5, 2022, Decedent and Nemeth's attorney informed the BCSD that Decedent was hospitalized and his outcome was uncertain. (Compl. ¶ 14; Ans. ¶ 2).

Decedent died on October 7, 2022 during the closing period. (Pl.’s Exhibit D; Compl. ¶ 15; Ans. ¶ 2). On the day of Decedent’s death, Nemeth forwarded to the BCSD a picture of a Power of Attorney (“POA”) purportedly executed in her favor by Decedent on December 17, 2018, and indicated that because Decedent lacked capacity to close the sale of the Property, Nemeth would close for him pursuant to her authority under the POA. (Pl.’s Exhibit E; Compl. ¶ 16; Ans. ¶ 2). On October 12, 2022, Nemeth executed and delivered to the BCSD an affidavit falsely stating the POA remained in force and that Decedent was still alive, even though Decedent died five days earlier and the POA terminated upon his death under S.C. Code Ann. § 62-8-110(a)(1). (Pl.’s Exhibit F).

On or about October 31, 2022, Nemeth sold the Property to the BCSD for \$886,000.00, the price agreed to in the Contract of Sale for both Nemeth’s and Decedent’s interests in the Property (the “Sale”). (Pl.’s Exhibit G; Pl.’s Exhibit H; Pl.’s Exhibit I (stating that the “effective date of closing” was October 31, 2022)). Nemeth is the only grantor present on the deed conveying the Property, and Nemeth alone collected the full amount of the Sale’s proceeds. (Pl.’s Exhibits G–H). It was only after receiving the entire proceeds that Nemeth recorded Decedent’s death certificate on November 3, 2022. (Pl.’s Exhibit D).

STANDARD OF REVIEW

Summary judgment is proper when the pleadings, depositions, affidavits, and discovery on file show there is no genuine issue of material fact such that the moving party must prevail as a matter of law. *See* Rule 56(c), SCRPC; *Knight v. Austin*, 396 S.C. 518, 521, 722 S.E.2d 802, 804 (2012); *Kitchen Planners, LLC v. Friedman*, 440 S.C. 456, 463, 892 S.E.2d 297, 301 (2023) (eliminating the “mere scintilla” standard and holding the proper standard is the “genuine issue of material fact” standard set forth in the text of Rule 56(c), SCRPC). In determining whether any

triable issues of fact exist, the evidence and all inferences which can be reasonably drawn therefrom must be viewed in the light most favorable to the non-moving party. *Shaw v. City of Charleston*, 351 S.C. 32, 38, 567 S.E.2d 530, 534 (2002). Although a court considering summary judgment is to view the evidence in the light most favorable to the non-moving party, “a party may not create a genuine issue of material fact through speculation or guesswork.” *In re Eleanor McCarthy Lenahan Tr. under agreement Dated July 12, 2001*, 428 S.C. 598, 605, 836 S.E.2d 793, 797 (Ct. App. 2019).

ANALYSIS

The Court finds that none of the facts material to Plaintiff’s claims are in dispute. This matter presents pure questions of law, and Plaintiff is entitled to judgment as a matter of law on all three of his causes of action.

I. Plaintiff is Entitled to Summary Judgment on his Claim for Conversion.

Conversion is the “unauthorized assumption and exercise of the right of ownership over goods or personal chattels belonging to another, to the alteration of the condition or the exclusion of the owner’s rights.” *Regions Bank v. Schmauch*, 354 S.C. 648, 667, 582 S.E.2d 432, 442 (Ct. App. 2003) (citation and internal quotation marks omitted). To establish a cause of action for conversion, “a plaintiff must prove (1) an interest by the plaintiff in the thing converted; (2) the defendant converted the property to his or her own use; and (3) the use was without the plaintiff’s permission.” *Builders Source Direct v. Cosco Logistics (Americas) Inc.*, 2008 WL 11349731, at *11 (D.S.C. 2008) (citing *Crane v. Citicorp Nat’l Servs., Inc.*, 313 S.C. 70, 437 S.E.2d 50 (1993), *superseded by statute on other grounds*)). “[I]t is essential that the plaintiff establish either title to or right to the possession” of the property at the time of conversion. *Regions Bank*, 354 S.C. at 667, 582 S.E.2d at 442 (citation and internal quotation marks omitted).

A. The Estate owns an Interest in the Sale's Proceeds.

Here, the first element of conversion is indisputably met because the Estate owned a one-half interest in the Property at the time of the Sale and was, therefore, entitled to receive one half of the proceeds of the Sale. That is because the joint tenancy with rights of survivorship in which Nemeth and Decedent owned the Property was severed by their divorce in 2007 pursuant to South Carolina Code sections 27-7-40(a)(vii) and 62-2-507(c)(2).

Nemeth admits that she and Decedent divorced in 2007. (Compl. ¶ 9; Ans. ¶ 2). She also admits the divorce order did not reference or disclose the Property. (Pl.'s Exhibit A; Return ¶ 6). Those two facts alone are sufficient to sever Nemeth's rights of survivorship under South Carolina law.

S.C. Code § 27-7-40(a)(vii) clearly and unequivocally states, "Any joint tenancy in real estate held by a husband and wife with no other joint tenants ***is severed upon the filing of an order or decree dissolving their marriage and vests the interest in both the parties as tenants in common***, unless an order or decree of a court of competent jurisdiction otherwise provides." (emphasis added). Similarly, S.C. Code § 62-2-507(c)(2) provides:

Except as provided by the express terms of a governing instrument, a court order, or a contract relating to the division of the marital estate made between the divorced individuals before or after the marriage, divorce or annulment, the ***divorce or annulment of a marriage . . . severs the interests of the former spouses in property held by them at the time of the divorce or annulment as joint tenants with the right of survivorship so that the share of the decedent passes as the decedent's property and the former spouse has no rights by survivorship***. This provision applies to joint tenancies in real and personal property, joint and multiple-party accounts in banks, savings and loan associations, credit unions, and other institutions, and any other form of co-ownership with survivorship incidents.

Id. (emphasis added).

Thus, because the divorce order does not provide otherwise, nor is there any other court order or governing instrument that provides otherwise, Decedent's and Nemeth's joint tenancy

with rights of survivorship in the Property severed upon their divorce and became a tenancy in common without rights of survivorship.

Nemeth has made no argument as to how she retained survivorship rights in light of these statutes but incorrectly asserts without any explanation that she retained rights of survivorship upon Decedent's death because of a document dated December 17, 2018 and titled, "Last Will and Testament of George Francis Niesar" ("Purported Will") that claims to make Nemeth the sole beneficiary of all of Decedent's property, including his real estate. (Return ¶ 7; Def.'s Exhibit B). The Purported Will, however, could not possibly change the fact that Decedent's and Nemeth's joint tenancy previously severed upon their divorce in 2007 and that the Property, therefore, became a part of Decedent's Estate upon his death.

Further, the personal representative of an estate has superior rights to all assets in a probate estate for the very purpose of protecting the rights of all beneficiaries, interested persons, and creditors of the estate. *See* S.C. Code Ann. § 62-3-709 (entitling the personal representative to possession of all real property during administrating); S.C. Code Ann. § 62-3-711(a) ("Until termination of his appointment . . . , a personal representative has the same power over the title to property of the estate that an absolute owner would have"); *Estate of Livingston v. Livingston*, 404 S.C. 137, 145, 744 S.E.2d 203, 208 (Ct. App. 2013) (holding that "[b]ecause [the personal representative] retained the authority over the estate as the PR, the [real] property did not pass to [the devisee named in the Will to inherit the real property] despite his status as a named heir in the will. The probate code presents this as an absolute right derived out of necessity to manage the estate. Thus, when a PR asserts his or her authority over the property, the PR usurps the rights of the heirs regarding control of the real property while the estate is still being administered.").

Thus, after Decedent's death, Nemeth did not own the Property outright; instead, Nemeth and Decedent's Estate each had equal ownership in the Property. Therefore, there is no dispute that one-half of the proceeds from the Sale legally and equitably belonged to the Estate.

B. Nemeth Converted all of the Sale's Proceeds for her Own Use.

The second element of conversion is also satisfied. Nemeth does not dispute that she sold the Property to the BCSD for \$886,000, that she is the only grantor present on the deed conveying the Property to the BCSD, and that she collected the full purchase price after the Sale and kept it for herself alone without distributing the proceeds equally between herself and the Estate. (Pl.'s Exhibits G–H). As a result, there is no genuine issue that Nemeth converted half of the proceeds from the Sale of the Property and, thereby, converted an asset that rightfully belongs to Decedent's Estate.

C. Nemeth's Use was Without the Estate's Permission.

With respect to the third element of conversion, there is no factual dispute that the Estate did not permit or authorize Nemeth to keep the full proceeds from the Sale. It is undisputed that before Nemeth sold the Property and appropriated all of the Sale proceeds for herself alone, she did not submit any Will of Decedent to probate or petition for her appointment as Personal Representative of the Estate.

Accordingly, the Court hereby finds that summary judgment is warranted in Plaintiff's favor on his claim for conversion and orders Nemeth to pay actual damages to Plaintiff in the amount of \$443,000.00, which represents the Estate's one-half interest in the proceeds of the Sale. Additionally, because Nemeth's monetary obligation to the Estate is for a sum certain, the Court also awards prejudgment interest, accruing at an annual rate of 8.75% beginning on the first day the Estate could have demanded its \$443,000—October 31, 2022. *See* S.C. Code § 34-31-20(A)

(“In all cases of accounts stated and in all cases wherein any sum or sums of money shall be ascertained and, being due, shall draw interest according to law, the legal interest shall be at the rate of eight and three-fourths percent per annum.”); *Historic Charleston Holdings, LLC v. Mallon*, 381 S.C. 417, 673 S.E.2d 448 (2009) (“The law permits the award of prejudgment interest when a monetary obligation is a sum certain, or is capable of being reduced to certainty, accruing from the time payment may be demanded either by the agreement of the parties or the operation of law.”); *Robbins v. First Fed. Sav. Bank*, 294 S.C. 219, 225, 363 S.E.2d 418, 422 (Ct. App. 1987) (stating that “the measure of damages for money which has been converted is its amount with legal interest from the date of conversion”).

II. Plaintiff is Entitled to Summary Judgment on his Claim against Nemeth for Liability as Executor De Son Tort.

Plaintiff is also entitled to summary judgment on his cause of action against Nemeth for her liability as an executor de son tort of Decedent’s Estate. Under S.C. Code Ann. § 62-3-619, “[a]ny person who obtains, receives, or possesses property of whatever kind, belonging to the decedent, by means of fraud or without paying valuable consideration equivalent to the value of the property, shall be charged and chargeable as executor of his own wrong (executor de son tort) with respect to the goods and debts.” In such cases, “[t]he value of the property is charged to the executor de son tort,” and “shall be deducted from any distribution or payment of any claim or commission to which the executor de son tort is entitled from the estate.” *Id.*

As discussed above, Nemeth’s and Decedent’s joint tenancy with rights of survivorship in the Property severed upon their divorce. Accordingly, when Decedent died, his one-half interest in the Property did not vest in Nemeth but remained in his Estate. Nemeth obtained, received, and currently possesses all of the proceeds from the Sale of the Property, one-half of which belongs to the Estate. Nemeth did not pay any consideration to the Estate for the Estate’s one-half ownership

interest in the Property, Decedent's rights under the contract to sell the Property, or one half of the proceeds from the Sale of the Property. Accordingly, the Court hereby finds that Nemeth is liable to Decedent's Estate as executor de son tort for one-half of the proceeds of the Sale and, therefore, awards summary judgment in Plaintiff's favor.

III. Plaintiff is Entitled to Summary Judgment on his Claim for Constructive Trust.

Last, the Court grants summary judgment on Plaintiff's claim for constructive trust. A constructive trust is an operation of law designed to remedy unjust enrichment, *Hale v. Finn*, 388 S.C. 79, 89, 694 S.E.2d 51, 57 (Ct. App. 2010), and "arises whenever a party has obtained money which does not equitably belong to him and which he cannot in good conscience retain or withhold from another who is beneficially entitled to it as where money has been paid by accident, mistake of fact, or fraud, or has been acquired through a breach of trust or the violation of a fiduciary duty." *SSI Med. Servs.*, 301 S.C. at 500, 392 S.E.2d at 793-94.

There is no genuine issue that Nemeth has been unjustly enriched by her unlawful and fraudulent procurement and retention of the full proceeds of the Property's Sale, when one half of those proceeds belong to the Estate. The Estate's share of the proceeds do not equitably belong to Nemeth, and she cannot in good conscience retain or withhold them from the Estate. Therefore, Plaintiff is entitled to the imposition of a constructive trust over the portion of the proceeds from the Property's Sale that rightfully belong to Decedent's Estate that Nemeth improperly retained for herself. *See SSI Med. Servs.*, 301 S.C. at 501, 392 S.E.2d at 794 (affirming summary judgment in plaintiff's favor on its claim for constructive trust where the "profits [the defendant] retained from the sale of the vehicles were acquired through a breach of trust and fiduciary duty" and, therefore, "did not equitably belong to [the defendant]").

CONCLUSION

Based on the foregoing, the Court enters summary judgment in favor of Plaintiff on his claims against Nemeth for conversion, constructive trust, and liability as executor de son tort. Nemeth is hereby directed to pay actual damages to Plaintiff in the principal amount of \$443,000, plus prejudgment interest at 8.75% per annum, from October 31, 2022, the date of the conversion, until the date the judgment is entered, and thereafter at the post-judgment rate provided for in S.C. Code Ann. § 34-31-20(B)¹ until paid in full. Through November 7, 2025, the prejudgment interest is \$116,104.45, and the combined total owed is \$559,104.45. In addition to these damages, as required by S.C. Code Ann. § 62-3-619, the value of any distribution or payment that Nemeth may be entitled to receive from the Estate shall be reduced by \$443,000—the value of the Estate’s property in Nemeth’s wrongful possession. Last, the Court hereby imposes a constructive trust over \$443,000—the portion of the proceeds of the Sale that rightfully belong to the Estate that Nemeth improperly retained for herself—plus the pre- and post-judgment interest awarded above.

AND IT IS SO ORDERED.

Honorable Carmen T. Mullen
Circuit Court Judge

¹ The current post-judgment interest rate is 11.5% compounded annually. *See* S.C. Sup. Ct. Order dated January 6, 2025.

FORM 4

STATE OF SOUTH CAROLINA
COUNTY OF BEAUFORT
IN THE COURT OF COMMON PLEAS

JUDGMENT IN A CIVIL CASE

CASE NO. 2025 CP-07-00873

Gerald Viglione Niesar, Individually and as Personal
Representative of the Estate of George Francis Niesar

Christine Nemeth

PLAINTIFF

DEFENDANT

Submitted by: Robert Brunson, Esquire

Attorney for : ☒ Plaintiff ☐ Defendant
or
☐ Self-Represented Litigant

DISPOSITION TYPE (CHECK ONE)

- ☐ **JURY VERDICT.** This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- ☒ **DECISION BY THE COURT.** This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered. ☒ See Page 2 for additional information.
- ☐ **ACTION DISMISSED** (*CHECK REASON*): ☐ Rule 12(b), SCRPC; ☐ Rule 41(a), SCRPC (Vol. Nonsuit); ☐ Rule 43(k), SCRPC (Settled); ☐ Other
- ☐ **ACTION STRICKEN** (*CHECK REASON*): ☐ Rule 40(j), SCRPC; ☐ Bankruptcy; ☐ Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award; ☐ Other
- ☐ **STAYED DUE TO BANKRUPTCY**
- ☐ **DISPOSITION OF APPEAL TO THE CIRCUIT COURT** (*CHECK APPLICABLE BOX*):
☐ Affirmed; ☐ Reversed; ☐ Remanded; ☐ Other

NOTE: ATTORNEYS ARE RESPONSIBLE FOR NOTIFYING LOWER COURT, TRIBUNAL, OR ADMINISTRATIVE AGENCY OF THE CIRCUIT COURT RULING IN THIS APPEAL.

IT IS ORDERED AND ADJUDGED: ☒ See attached order (formal order to follow) ☐ Statement of Judgment by the Court:

ORDER INFORMATION

This order ☒ ends ☐ does not end the case.

Additional Information for the Clerk : _____

INFORMATION FOR THE JUDGMENT INDEX

Complete this section below when the judgment affects title to real or personal property or if any amount should be enrolled. If there is no judgment information, indicate "N/A" in one of the boxes below.

Judgment in Favor of (List name(s) below)	Judgment Against (List name(s) below)	Judgment Amount To be Enrolled (List amount(s) below)
Gerald Viglione Niesar, Individually and as Personal Representative of the Estate of George Francis Niesar, Plaintiff	Christine Nemeth	\$443,000.00 actual damages
Gerald Viglione Niesar, Individually and as Personal Representative of the Estate of George Francis Niesar, Plaintiff	Christine Nemeth	\$116,104.45 pre-judgment interest
Gerald Viglione Niesar, Individually and as Personal Representative of the Estate of George Francis Niesar, Plaintiff	Christine Nemeth	Post-judgment interest pursuant to S.C. Code Ann. § 34-31-20(B) until paid in full

If applicable, describe the property, including tax map information and address, referenced in the order:

The judgment information above has been provided by the submitting party. Disputes concerning the amounts contained in this form may be addressed by way of motion pursuant to the SC Rules of Civil Procedure. Amounts to be computed such as interest or additional taxable costs not available at the time the form and final order are submitted to the judge may be provided to the clerk. **Note: Title abstractors and researchers should refer to the official court order for judgment details.**

E-Filing Note: In E-Filing counties, the Court will electronically sign this form using a separate electronic signature page.

Honorable Carmen T. Mullen, Circuit Court Judge

Judge Code

Date

For Clerk of Court Office Use Only

This judgment was entered on the _____ day of December, 2025 and a copy mailed first class or placed in the appropriate attorney's box on this _____ day of December, 2025 to attorneys of record or to parties (when appearing pro se) as follows:

Robert H. Brunson

John P. Bozeman

ATTORNEYS FOR THE PLAINTIFF

Russ Keep, III

ATTORNEY FOR THE DEFENDANT

CLERK OF COURT

Court Reporter:

E-Filing Note: In E-Filing counties, the date of Entry of Judgment is the same date as reflected on the Electronic File Stamp and the clerk's entering of the date of judgment above is not required in those counties. The clerk will mail a copy of the judgement to parties who are not E-Filers or who are appearing pro se. See Rule 77(d), SCRPC.

ADDITIONAL INFORMATION REGARDING DECISION BY THE COURT AS REFERENCED ON PAGE 1.

This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.

In addition to these damages, as required by S.C. Code Ann. § 62-3-619, the value of any distribution or payment that Nemeth may be entitled to receive from the Estate shall be reduced by \$443,000—the value of the Estate's property in Nemeth's wrongful possession. Last, the Court hereby imposes a constructive trust over \$443,000—the portion of the proceeds of the Sale that rightfully belong to the Estate that Nemeth improperly retained for herself—plus the pre- and post-judgment interest awarded above.

FORM 4C INSTRUCTIONS—JUDGMENT IN A CIVIL CASE
(Instructions for Information Only-Not to be filed with Form 4C)

1. Form 4C-Judgment in a Civil Case has been modified to add order information and enrollment instructions for the clerk of court. The purpose of Form 4 has not changed with the exception that judgment information is provided when applicable.
2. Please note that the Form 4C must be attached to all orders that include information to enroll in the judgment index. The clerk will not be responsible for reading the order to determine enrollment information.

The attorney or prevailing party will prepare and attach the Form 4C when submitting the proposed order that includes judgment enrollment information for the judgment index. The judge will review and sign Form 4C when he or she signs an order that includes judgment enrollment information for the judgment index.

3. Form 4C is not required to be submitted to the Court with orders that do not include information to enroll in the judgment index. If the clerk receives such an order without Form 4C attached, the clerk should enter and process the order pursuant to Rule 58 and Rule 77(d), SC Rules of Civil Procedure (i.e., the clerk should serve notice of entry of the judgment by mail or provide the attorneys with copies of the signed order by other means).
4. The “Information for the Judgment Index” section should be completed when the judgment affects title to real or personal property or if any amount should be enrolled. In the “Judgment in Favor of” column, enter the name of the party to whom the judgment is awarded. In the “Judgment Against” column, enter the name of the person to whom the judgment is against. The judgment amount to be enrolled should be noted in the “Judgment Amount” column. As necessary, describe any property referenced in the order if it is to be enrolled in the judgment index. If there is no judgment information to enroll, indicate “N/A” in one of the boxes in this section of the form.
5. To enter information to accommodate multiple parties, additional Form 4Cs may be used as necessary. Additional space may be inserted on the form as necessary.
6. The section “For the Clerk of Court Office Use Only” should be completed by the clerk as it has been with the previous version of Form 4.
7. If the matter is on appeal to the Circuit Court, then the parties on the form should be changed from Plaintiff and Defendant to Appellant and Respondent.
8. If an arbitrator prepares an order after arbitration, the arbitrator should strike through “Circuit Court Judge” and indicate “Arbitrator” in the signature block.

9. If a Special Circuit Court Judge, Master in Equity, or Special Referee prepares an order after hearing a Circuit Court matter, then he or she should strike through the title “Circuit Court Judge” below the signature line and indicate the appropriate title.
10. When an Order of Foreclosure is filed, neither the parties or debt owed should be listed in the Information for the Judgment Index Section, unless the foreclosure order specifically requires entry of the full judgment amount before the foreclosure sale, pursuant to Section 29-3-650 of the SC Code.
11. If the deficiency judgment is waived in a Foreclosure action, indicate N/A in the “Judgment Amount To Be Enrolled” box.
12. Foreclosure actions should be ended by the Clerk of Court upon receipt of the Order of Foreclosure. Subsequent information, including deficiency judgments, can be added to the action after the case is ended. The Master in Equity should end the action in the MIE system upon the receipt of the Order of Foreclosure.
13. When judgment enrollment information is included in the Information for the Judgment Index Section (for example, when there is a deficiency judgment), only the parties who the judgment is for and against should be included in the Section. Subordinate parties and lienholders should not be included in the box if there is not a judgment amount specifically for or against them.
14. Form 4C is not required to be attached to Transcripts of Judgment and Confession of Judgment.



Beaufort Common Pleas

Case Caption: Gerald Viglione Niesar , plaintiff, et al VS Christine Nemeth

Case Number: 2025CP0700873

Type: Order/Summary Judgment

So Ordered

s/Carmen T Mullen 2142

Electronically signed on 2025-12-31 10:47:45 page 15 of 15

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
COUNTY OF BEAUFORT	)	FOR THE FOURTEENTH JUDICIAL CIRCUIT
	)	
	)	CIVIL ACTION NO.: 2025-CP-07-00873
Gerald Niesar,	)	
Plaintiff,	)	
	)	
VS.	)	
	)	ORDER
	)	
Christine Nemeth,	)	
Defendant.	)	
	)	

This Motion to Reconsider this Court’s order dated December 31, 2025 came before me for a hearing on January 14, 2026. Following the hearing, Plaintiff filed their supplemental memorandum on January 26, 2026 and Defendant filed their supplemental response on January 29, 2026.

The Court has reviewed the entire file for purposes of this Motion to Reconsider and considered oral arguments and all briefing regarding this action in which the Estate is alleging that it is entitled to half of the proceeds from the sale of the subject Property. After further review, the Court believes that there is a question of fact as to the Plaintiff’s claims and reverses her December 31, 2025 order granting Summary Judgment on all causes of action.

As to the cause of action for conversion, under South Carolina law, a cause of action for conversion cannot be sustained when the thing converted is an interest in real property. See Equitable Tr. Co. of Columbia v. Columbia Nat’l Bank, 142 S.E. 811, 813-814 (S.C. 1928), “The cause of action set up by the plaintiff is one in tort for damages for conversion, and such an action does not lie for an exercise of of dominion or control over real property or the assumption

of the right to dispose of the same, even though the exercise of such dominion or the assumption of such right is in denial of the rights of a true owner.”)

As to the cause of action for liability as executor de son tort, pursuant to S.C. Code § 62-1-302(a), the probate court has exclusive original jurisdiction over all subject matter related to estates of decedents, including actions involving estate property and related disputes, unless the Code specifically provides otherwise. South Carolina Code § 62-3-620 specifically allows the probate court to cite an executor de son tort before it, require an accounting, and decree liability for waste or damage to estate property — effectively empowering the probate court to adjudicate those claims.

In Judy v. Judy, 393 S.C. 160, 712 S.E.2d 408 (S.C. 2011), the Supreme Court of South Carolina held that the probate court had jurisdiction over a waste claim against a defendant whose conduct classified him as an “executor de son tort” under S.C. Code § 62-3-620. The court explained the statute authorizes the probate judge to require an executor de son tort to account for estate property and to decree damages for waste or conversion. In the Judy context, the Supreme Court’s holding supports the probate court as the proper forum for executor de son tort claims tied to estate administration, not circuit court. And while I cannot find an opinion explicitly stating “circuit courts lack subject matter jurisdiction over executor de son tort actions,” the Judy case and the Probate Code strongly support the principle that probate courts are the appropriate forum for such claims.

Finally, as to the cause of action for a constructive trust, while the Defendant’s argument is poorly articulated, there are questions of fact that need to be decided by the fact finder such that summary judgment is not appropriate on whether or not a constructive trust exists.

THEREFORE, IT IS ORDERED that the Final Order Granting Plaintiff's Motion for Summary Judgment entered on December 31, 2025 is reversed in full. Plaintiff's Motion for Summary Judgment is accordingly denied, and this case shall remain on the docket.

IT IS SO ORDERED.

Carmen T. Mullen
Fourteenth Judicial Circuit

March ____, 2026
Beaufort, SC



Beaufort Common Pleas

Case Caption: Gerald Viglione Niesar , plaintiff, et al VS Christine Nemeth

Case Number: 2025CP0700873

Type: Order/Other

So Ordered

s/Carmen T Mullen 2142

Electronically signed on 2026-03-10 09:12:54 page 4 of 4

FORM 4

STATE OF SOUTH CAROLINA
COUNTY OF Beaufort
IN THE COURT OF COMMON PLEAS

JUDGMENT IN A CIVIL CASE

CASE NO. 2025CP0700873

Gerald Viglione Niesar et al
PLAINTIFF(S)

Christine Nemeth
DEFENDANT(S)

DISPOSITION TYPE (CHECK ONE)

- ☐ **JURY VERDICT.** This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- ☒ **DECISION BY THE COURT.** This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.
- ☐ **ACTION DISMISSED** (CHECK REASON): ☐ Rule 12(b), SCRPC; ☐ Rule 41(a), SCRPC (Vol. Nonsuit); ☐ Rule 43(k), SCRPC (Settled);
☐ Other
- ☐ **ACTION STRICKEN** (CHECK REASON): ☐ Rule 40(j), SCRPC; ☐ Bankruptcy;
☐ Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award;
☐ Other
- ☐ **STAYED DUE TO BANKRUPTCY**
- ☐ **DISPOSITION OF APPEAL TO THE CIRCUIT COURT** (CHECK APPLICABLE BOX):
☐ Affirmed; ☐ Reversed; ☐ Remanded;
☐ Other

NOTE: ATTORNEYS ARE RESPONSIBLE FOR NOTIFYING LOWER COURT, TRIBUNAL, OR ADMINISTRATIVE AGENCY OF THE CIRCUIT COURT RULING IN THIS APPEAL.

IT IS ORDERED AND ADJUDGED: ☐ See attached order (formal order to follow) ☒ Statement of Judgment by the Court:

This matter comes before the Court on Plaintiff's Motion to Reconsider filed on March 3, 2026. This motion is denied without a hearing.

ORDER INFORMATION

This order ☐ ends ☒ does not end the case.

☐ See Page 2 for additional information.

For Clerk of Court Office Use Only

This judgment was electronically entered by the Clerk of Court as reflected on the Electronic Time Stamp, and a copy mailed first class to any party not proceeding in the Electronic Filing System on 04/21/2026 .

George Frances Niesar
Estate of George Fances Neisar

NAMES OF TRADITIONAL FILERS SERVED BY MAIL

Court Reporter:

E-Filing Note: The date of Entry of Judgment is the same date as reflected on the Electronic File Stamp and the clerk's entering of the date of judgment above is not required in those counties. The clerk will mail a copy of the judgment to parties who are not E-Filers or who are appearing pro se. See Rule 77(d), SCRCP.



Beaufort Common Pleas

Case Caption: Gerald Viglione Niesar , plaintiff, et al VS Christine Nemeth

Case Number: 2025CP0700873

Type: Order/Electronic Form 4

So Ordered

s/Carmen T Mullen 2142

Electronically signed on 2026-04-21 13:54:52 page 3 of 3

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
BEAUFORT DIVISION

Gerald Viglione Niesar, as Personal
Representative of the Estate of George
Francis Niesar,

Plaintiff,

vs.

Christine Nemeth,

Defendant.

Civil Action No. 9:23-cv-04660-DCN

SECOND AMENDED
COMPLAINT

(Jury Trial Requested)

Plaintiff Gerald Viglione Niesar, as Personal Representative of the Estate of George Francis Niesar (“Plaintiff”), by and through undersigned counsel, files this Second Amended Complaint against Defendant Christine Nemeth (“Defendant”) based on the allegations set forth below.

PARTIES

1. Plaintiff Gerald Viglione Niesar (“Gerald”) is a citizen and resident of the State of California. Gerald is the Personal Representative of the Estate of George Francis Niesar. George Francis Niesar was a citizen and resident of Beaufort County, South Carolina, and he was the brother of Plaintiff Gerald.

2. Upon information and belief, Defendant is a citizen and resident of the State of North Carolina.

JURISDICTION AND VENUE

3. This Court has subject-matter jurisdiction over this action pursuant to 28 U.S.C. § 1332 because there is a complete diversity of citizenship between Plaintiff and Defendant, and the matter in controversy exceeds the sum or value of \$75,000.00, exclusive of interest and costs.

4. This Court has personal jurisdiction over Defendant because the subject matters of the causes of action enumerated herein arise from Defendant's tortious conduct occurring within the State of South Carolina and in whole or in part in Beaufort County, South Carolina.

5. Venue is proper in this District pursuant to 28 U.S.C. § 1391 and Local Civ. Rule 3.01(A)(1) (D.S.C.) because a substantial part of the events or omissions giving rise to the claims asserted in this action occurred within this District.

FACTS

6. George Francis Niesar ("George") married Defendant on March 29, 1989.

7. George was previously married and had two children from this former marriage. George and Defendant had no children together.

8. During their marriage, George and Defendant jointly owned the property known as 1105 Bluffton Parkway, Bluffton, SC 29910 with Beaufort County Tax Map Parcel Numbers R600-029-000-0034-0000 and R600-029-000-011A-0000 (the "Property") in a joint tenancy with rights of survivorship. There was no mortgage on the Property.

9. George and Defendant separated on September 25, 1995. George and Defendant filed for divorce on May 7, 2007. The divorce became final within that same year.

10. The divorce agreement between George and Defendant did not reference or disclose the Property.

11. After the divorce, tax liens were recorded on the Property in George's name only.

12. Upon information and belief, after her divorce from George, Defendant moved to Florida.

13. Upon information and belief, Defendant subsequently moved back to South Carolina and was living with George until his death.

14. George and Defendant granted an easement to the Beaufort County School District for the Property in 2014. In 2016, George alone, without Defendant, granted an easement for drainage to Beaufort County for the Property.

15. The Beaufort County School District attempted to purchase the Property before George's death. An agreement on the purchase price for the Property was met in January 2019, but the purchase and sale did not occur at that time.

16. Through several emails on or around October 5, 2022, George and Defendant's attorney informed the Beaufort County School District that George was hospitalized and his outcome was uncertain.

17. George died on October 7, 2022, at the Coastal Carolina Hospital in Hardeeville, South Carolina.

18. On the day of George's death, Defendant forwarded to the Beaufort County School District a picture of a Power of Attorney executed in her favor by George on December 17, 2018. Defendant indicated that because George lacked capacity to close the sale regarding the Property, Defendant through her Power of Attorney would close for him.

19. Defendant signed an affidavit on October 12, 2022, stating that the Power of Attorney remained in force and that George was still alive, even though George was already deceased at this time, and Defendant delivered this affidavit to the Beaufort County School District.

20. The closing for the Property was set for October 31, 2022, but was then pushed back to a later date.

21. George's marital status on his death certificate stated that he was divorced and not remarried.

22. On November 3, 2022, Defendant or her representative filed George's death certificate with the Beaufort County Register of Deeds office, and Defendant wrongfully assumed sole ownership of the Property. Defendant sold the Property to the Beaufort County School District for \$886,000.00 on or around November 4, 2022. Defendant is the only grantor present on the deed conveying the Property to the Beaufort County School District. Defendant collected the full purchase price after the sale of the Property.

23. After selling the Property, Defendant purchased a home in North Carolina for around \$500,000.00.

24. Defendant informed George's family of his death, but she did not deliver a will of George to the Judge of the Probate Court having jurisdiction to admit the same within thirty days of receiving notice of George's death, as is required by S.C. Code § 62-2-901.

25. After learning of his brother's death and becoming aware that no will had been submitted for probate, Gerald, with the consent of George's children, filed a petition to open a probate matter regarding George's Estate based on his status as a creditor of George's Estate. On May 25, 2023, the probate court in Beaufort County, South Carolina (the "Probate Court") appointed Gerald as the Personal Representative of George's Estate in *In the Matter of: George Francis Niesar*, Case No. 2023-ES-07-00417. (See **Exhibit A.**)

26. On October 13, 2023, Defendant's counsel in this matter sent Plaintiff's counsel a purported copy of George's Will dated December 17, 2018 (the "Purported Will"), stating that Defendant allegedly has the original Purported Will. This is the first time Gerald was ever made aware of the Purported Will. Gerald had never seen the Purported Will before, nor had George ever mentioned the Purported Will to Gerald while George was alive.

27. The Purported Will claims to disinherit George's daughter and to make Defendant the sole beneficiary of all of George's property, including his real estate, as well as to make Defendant the sole beneficiary under the residuary clause. The Purported Will makes Gerald the successor beneficiary under the residuary clause.

28. After Defendant had made two failed attempts to probate the Purported Will in November and December 2023, on January 17, 2024, Defendant filed her Revised Petition in the Probate Court, seeking her Formal Appointment as Personal Representative and Formal Testacy of the Purported Will ("Defendant's Revised Petition").

29. On January 31, 2024, Gerald filed in the Probate Court his Answer opposing Defendant's Revised Petition and asserting a Counterclaim against Defendant for her violation of S.C. Code § 62-2-901. On February 9, 2024, Gerald also filed in the Probate Court his Memorandum in Opposition to Appointment of Defendant as Personal Representative.

30. On February 12, 2024, the Honorable Heather R. Galvin at the Probate Court held a telephone status conference with counsel for Gerald and Defendant and decided to delay further proceedings in the Probate Court until the lawsuit in this Court is concluded. Judge Galvin also confirmed that Gerald is authorized to pursue this action on behalf of the Estate in this Court.

FIRST CAUSE OF ACTION
(Conversion)

31. Plaintiff hereby incorporates by reference the allegations of the preceding paragraphs as if fully set forth herein.

32. George and Defendant jointly owned the Property in a joint tenancy with rights of survivorship during their marriage.

33. After George and Defendant divorced, their joint tenancy with rights of survivorship in the Property severed.

34. Because of this severance, after George's death, Defendant and George's Estate each had an equal ownership percentage in the Property. Thus, after George's death, George's Estate had a right to possession of the Property and an ownership right to the portion of the proceeds of any sale of the Property.

35. After George's death, Defendant wrongfully misrepresented herself to the Beaufort County School District as the sole owner of the Property and sold the Property for \$886,000.00.

36. Defendant exercised unauthorized control over the Property and converted the Property completely for her own use through this sale.

37. Defendant did not distribute the proceeds from the sale of the Property between herself and George's Estate, but rather wrongfully collected the full sales price for herself alone. George's Estate had not been opened and did not approve this sale of the Property, nor did the Estate authorize Defendant to keep the proceeds from the Property's sale exclusively for herself.

38. In conjunction with the sale of the Property, Defendant fraudulently represented to the Beaufort County School District that George was still alive and that she was his agent pursuant to the Power of Attorney he executed before his death.

39. Defendant, even after institution of this lawsuit setting forth her misconduct, has not provided any compensation to George's Estate for its rightful share of the proceeds from the sale of the Property.

40. George's Estate demands that Defendant return the portion of the proceeds from the Property's sale that rightfully belongs to George's Estate and/or pay damages equal to the Estate's ownership interest in the Property.

SECOND CAUSE OF ACTION
(Unjust Enrichment/Quantum Meruit)

41. Plaintiff hereby incorporates by reference the allegations of the preceding paragraphs as if fully set forth herein.

42. As discussed above, after George's death, George's Estate had a right to possession of the Property and an ownership right to the portion of the proceeds of any sale of the Property.

43. After George's death, Defendant wrongfully misrepresented herself as the sole owner of the Property and promptly sold it for the value of \$886,000.00. Defendant did not distribute the proceeds from the sale of the Property between herself and George's Estate, but rather wrongfully collected the full sales price for herself alone. George's Estate had not been opened and did not approve this sale of the Property, nor did the Estate authorize Defendant to keep the proceeds from the Property's sale exclusively for herself.

44. Defendant has received a valuable benefit and has been unjustly enriched at the expense of George's Estate through the sale of the Property by improperly retaining all proceeds from the Property's sale to which she was not entitled.

45. George's Estate has conferred valuable benefits upon Defendant with respect to the Property, including possession, enjoyment, and use of the Property, as well as Defendant's receipt and retention of all proceeds from the sale of the Property.

46. George's Estate did not confer these benefits gratuitously, and Defendant realized these benefits by accepting them and retaining all of the proceeds from the Property's sale for herself alone.

47. Defendant has retained these benefits and has failed to provide George's Estate with its rightful share of the proceeds from the sale of the Property or any compensation for the same, making Defendant's retention unjust under the circumstances.

48. Equity and good conscience require that Defendant return the portion of the proceeds from the Property's sale that rightfully belongs to George's Estate.

49. Defendant should be required to disgorge this unjust enrichment.

THIRD CAUSE OF ACTION
(Breach of Fiduciary Duty)

50. Plaintiff hereby incorporates by reference the allegations of the preceding paragraphs as if fully set forth herein.

51. A fiduciary relationship existed between Defendant and George where George imposed a special confidence in Defendant and through the Power of Attorney he executed on December 17, 2018, that appointed Defendant as his attorney-in-fact.

52. Defendant, in equity and good conscience, was bound to act in good faith and with due regard to the interests of George.

53. Defendant abused her fiduciary relationship and confidence that was reposed in her through the course of her improper conduct alleged herein, including her exploitation of the Power of Attorney with which George entrusted her, and which she used improperly after his death by signing an affidavit falsely stating that the Power of Attorney remained in force and that George was still alive on October 12, 2022, while Defendant knew that George in fact died five days prior. Defendant engaged in this improper conduct in order to push through the sale of the Property as if she owned it outright and to wrongfully keep all of the proceeds from the sale of the Property to herself alone, even though she knew that after George's death, George's Estate had a right to possession of the Property and an ownership right to the portion of the proceeds of any sale of the Property.

54. As a direct and proximate result of Defendant's conduct in violation of her fiduciary duty, George's Estate suffered damages in the amount of the portion of the proceeds from the Property's sale that rightfully belongs to George's Estate.

55. George's Estate demands that Defendant return the portion of the proceeds from the Property's sale that rightfully belongs to George's Estate.

FOURTH CAUSE OF ACTION
(Disgorgement/Restitution/Constructive Trust)

56. Plaintiff hereby incorporates by reference the allegations of the preceding paragraphs as if fully set forth herein.

57. Defendant owed George a fiduciary duty because he imposed special confidence in Defendant and through the Power of Attorney he executed on December 17, 2018, that appointed Defendant as his attorney-in-fact.

58. Defendant, in equity and good conscience, was bound to act in good faith and with due regard to the interests of George and, by extension, George's Estate.

59. Defendant abused her fiduciary relationship and confidence that was reposed in her through the course of her improper conduct alleged herein, including her exploitation of the Power of Attorney with which George entrusted her, and which she used improperly after his death by signing an affidavit falsely stating that the Power of Attorney remained in force and that George was still alive on October 12, 2022, while Defendant knew that George in fact died five days prior. Defendant engaged in this improper conduct in order to push through the sale of the Property as if she owned it outright and to wrongfully keep all of the proceeds from the sale of the Property to herself alone, even though she knew that after George's death, George's Estate had a right to possession of the Property and an ownership right to the portion of the proceeds of any sale of the Property.

60. Defendant obtained and retained the full proceeds from the sale of the Property through bad faith, abuse of confidence, and/or violation of a fiduciary duty, which give rise to an obligation in equity to make restitution to Plaintiff by disgorging the portion of the proceeds from the Property's sale that rightfully belongs to George's Estate.

61. Defendant obtained and retained the full proceeds from the sale of the Property that do not equitably belong to her and which she cannot in good conscience retain or withhold from Plaintiff.

62. Defendant has been unjustly enriched through her improper course of conduct, including her bad faith, abuse of confidence, and/or violation of fiduciary duty.

63. Based upon the foregoing, Plaintiff is entitled to disgorgement, restitution, and/or the imposition of a constructive trust over the portion of the proceeds from the Property's sale that rightfully belongs to George's Estate that Defendant improperly retained for herself.

JURY DEMAND

64. Plaintiff demands a trial by jury on all issues triable of right by a jury.

WHEREFORE, having set out the foregoing Second Amended Complaint against Defendant, Plaintiff hereby prays for the following relief:

1. Judgment against Defendant on all of Plaintiff's causes of action against Defendant in an amount to be determined by the trier of fact;
2. Judgment against Defendant for actual damages, consequential damages, special damages, the costs of this action, attorneys' fees, and litigation expenses;
3. Pre- and post-judgment interest on all damages awarded; and
4. Such other and further legal and equitable relief as this Court may deem just and proper.

NELSON MULLINS RILEY & SCARBOROUGH LLP

By: /s/ Robert H. Brunson

Robert H. Brunson

S.C. Bar No. 11987

E-Mail: robert.brunson@nelsonmullins.com

151 Meeting Street / Sixth Floor

Post Office Box 1806 (29402-1806)

Charleston, SC 29401-2239

(843) 853-5200

*Attorneys for Plaintiff Gerald Viglione Niesar, as Personal
Representative of the Estate of George Francis Niesar*

Charleston, South Carolina
April 25, 2024

EXHIBIT A

STATE OF SOUTH CAROLINA
COUNTY OF BEAUFORT

IN THE MATTER OF THE ESTATE OF:
GEORGE FRANCIS NIESAR
(Decedent)

)
)
)
)
)
)

IN THE PROBATE COURT

CERTIFICATE OF APPOINTMENT

CASE NUMBER: 2023ES0700417

This is to certify that

GERLAD V. NIESAR

is/are the duly qualified

- ☒ PERSONAL REPRESENTATIVE
☐ SUCCESSOR PERSONAL REPRESENTATIVE
☐ SPECIAL ADMINISTRATOR

In the above matter and that this appointment, having been executed on the 25th
day of May, 2023 is now in full force and effect.

RESTRICTIONS: NONE

Executed this 25th day of May, 2023.

Heather R. Galvin
Heather R. Galvin, Probate Judge

**Do not accept a copy of this certificate without
the raised seal of the Probate Court.**

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
BEAUFORT DIVISION

Gerald Viglione Niesar, individually and as)	
Personal Representative of the Estate of)	Civil Action Case No. 9:23-cv-04660-DCN
George Francis Niesar,)	
Plaintiff,)	
)	ANSWER TO SECOND AMENDED
Vs.)	COMPLAINT DATED April 25, 2024
)	AFFIRMATIVE DEFENSES
Christine Nemeth,)	& COUNTERCLAIM
Defendant.)	
_____)	

Defendant, Christine Nemeth, by and through her undersigned counsel, files her Answer, Affirmative Defenses & Counterclaim to the Second Amended Complaint in this case dated April 25, 2024.

1. All allegations of the Second Amended Complaint not hereinafter admitted are denied.
2. Defendant admits paragraphs 1, 2, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 20, 21, 23, 24, 25, 26, 27, 28, 29, 30 and 32.
3. Defendant denies paragraph 3, 4 and 5. This matter is currently before the Beaufort County, SC Probate Court case number 2023-ES-07-00417.
4. As to paragraph 19, Defendant is unsure of when she signed the affidavit so she denies it.
5. Paragraph 27 is admitted. As such, this probate matter should be in the Beaufort County Probate Court or not at all.

FOR AN AFFIRMATIVE DEFENSE
LACK OF JURISDICTION

6. The Defendant incorporates by reference and reiterates in its entirety Paragraphs 1 through 5 of the Answer to Second Amended Complaint dated 4/25/2024, Affirmative Defenses and Counterclaim.
7. This court lacks jurisdiction as the controversy is not \$75,000.00 or more. The Plaintiff's prayer for relief from paragraph 26 of the **First** Amended Complaint states he is owed \$24,000.00.
8. The Plaintiff has no standing to bring this probate claim for half the Decedent's land in Probate or Federal Court, because he is not an heir.

FOR AN AFFIRMATIVE DEFENSE
ANOTHER ACTION IS PENDING

9. The Defendant incorporates by reference and reiterates in its entirety Paragraphs 1 through 8 of the Second Amended Answer to Amended Complaint dated 4/25/2024, Affirmative Defenses and Counterclaim.
10. Another action between the parties is currently pending in the Beaufort County Probate Court, case number 2023-ES-07-00417, as is admitted in the Second Amended Complaint paragraph 25. This case should be remanded to the Beaufort County, SC Probate Court.

FOR AN AFFIRMATIVE DEFENSE
12(b)6

11. The Defendant incorporates by reference and reiterates in its entirety Paragraphs 1 through 10 of the Answer to Second Amended Complaint dated 4/25/2024, Affirmative Defenses and Counterclaim.

12. When George died on October 7, 2022, the Defendant became the sole owner of the property where George and the Defendant resided, both by George's will and the deed which gave the Defendant rights of survivorship.

FOR AN AFFIRMATIVE DEFENSE
LACK OF STANDING

13. The Defendant incorporates by reference and reiterates in its entirety Paragraphs 1 through 12 of the Answer to Second Amended Complaint dated April 25, 2024, Affirmative Defenses and Counterclaim.
14. Plaintiff lacks standing to bring this case against the Defendant as the Defendant has not harmed the Plaintiff in any way. The Plaintiff is not an heir by South Carolina inheritance law or Will of the decedent, George, as Plaintiff admits in paragraph 27 being only a "successor beneficiary." There is no estate to probate in case number 2023-ES-07-00417.

FOR AN AFFIRMATIVE DEFENSE & COUNTERCLAIM
S.C. FRIVOLOUS PROCEDURES ACT (§15-36-10)

15. The Defendant incorporates by reference and reiterates in its entirety Paragraphs 1 through 14 of the Answer to Second Amended Complaint dated April 25, 2024, Affirmative Defenses and Counterclaim.
16. The Second Amended Complaint is entirely frivolous. Defendant requests attorney fees and sanctions.
17. The Plaintiff has no standing to sue. The Plaintiff is not an heir of George. The Plaintiff has not been injured or damaged by this Defendant. The Plaintiff is only a "successor beneficiary" named in George's 2018 will, which bequeaths his entire estate to the Defendant. There is not more than \$75,000.00 in controversy, only about \$24,000.00 at

best. This matter was and is brought in the Plaintiff's Probate Claim in Beaufort County, SC Probate Court case number 2023-ES-07-00417.

WHEREFORE, the Defendant prays the Second Amended Complaint be dismissed or be remanded to the Beaufort County, SC Probate Court case number 2023-ES-07-00417 and for such other and further relief as the honorable court deems just and fair including sanctions and attorney fees under the SC Frivolous Procedures Act and SCFRCP Rule 11.

Beaufort County, SC
May 7, 2024

s/Russ Keep, III
Russ Keep, III
S.C. Bar #3321
Post Office Box 5877
Hilton Head Island, SC 29938
(P) 843-842-6268
(F) 843-785-8458
hhlaw@hargray.com
Attorney for the Defendant/
Christine Nemeth

CERTIFICATE OF SERVICE

I, Russ Keep, hereby certify that this document has been filed through the ECF system and will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF) and paper copies will be sent to those indicated as non-registered participants on this date.

s/Russ Keep, III

Date: May 7, 2024

44

COMPLAINT

Plaintiff Gerald Viglione Niesar, individually and as Personal Representative of the Estate of George Francis Niesar (“Plaintiff” or “Gerald”), by and through undersigned counsel, files this complaint against Defendant Christine Nemeth (“Defendant”) based on the allegations set forth below.

1. Plaintiff is a citizen and resident of the State of California. Plaintiff is the Personal Representative of the Estate of George Francis Niesar (“Estate”). George Francis Niesar was a citizen and resident of Beaufort County, South Carolina, and he was the brother of Plaintiff.
2. Upon information and belief, Defendant is a citizen and resident of the State of North Carolina.

JURISDICTION AND VENUE

3. This Court has subject-matter jurisdiction over this action pursuant to S.C. Code Ann. § 62-1-302.

4. This Court has personal jurisdiction over Defendant because the causes of action enumerated herein arise from Defendant's tortious conduct occurring within the State of South Carolina, in whole or in part in Beaufort County, South Carolina.

5. Venue is proper in this Court pursuant to S.C. Code Ann. § 62-1-303 because proceedings concerning the Estate have already been commenced in this Court.

FACTS

6. George Francis Niesar ("George") married Defendant on March 29, 1989.

7. George was previously married and had two children from this former marriage. George and Defendant had no children together.

8. During their marriage, George and Defendant jointly owned the property known as 1105 Bluffton Parkway, Bluffton, SC 29910 with Beaufort County Tax Map Parcel Numbers R600-029-000-0034-0000 and R600-029-000-011A-0000 (the "Property") in a joint tenancy with rights of survivorship. There was no mortgage on the Property.

9. George and Defendant separated on September 25, 1995. George and Defendant filed for divorce on May 7, 2007. The divorce became final within that same year.

10. No governing instrument, court order, or contract relating to the division of the marital estate addressed the parties' joint ownership of the Property. As a result, the divorce severed the interests of George and Defendant in the Property as joint tenants with rights of survivorship.

11. After the divorce, tax liens were recorded on the Property in George's name only.

12. Upon information and belief, after her divorce from George, Defendant moved to Florida.

13. Defendant subsequently moved back to South Carolina and was living with George until his death.

14. On September 3, 2022, George and Defendant entered into a contract to sell the Property to the Beaufort County School District, with a closing date of October 31, 2022. Through several emails on or around October 5, 2022, George and Defendant's attorney informed the Beaufort County School District that George was hospitalized and his outcome was uncertain.

15. George died on October 7, 2022, at the Coastal Carolina Hospital in Hardeeville, South Carolina.

16. On the day of George's death, Defendant forwarded to the Beaufort County School District a picture of a Power of Attorney executed in her favor by George on December 17, 2018. Defendant indicated that because George lacked capacity to close the sale regarding the Property, Defendant through her Power of Attorney would close for him.

17. Defendant signed an affidavit on October 12, 2022, stating that the Power of Attorney remained in force and that George was still alive, even though George was already deceased at this time, and Defendant delivered this affidavit to the Beaufort County School District.

18. The closing for the Property was delayed to a later date.

19. When he died, George was not married.

20. On November 3, 2022, Defendant or her representative filed George's death certificate with the Beaufort County Register of Deeds office, and Defendant wrongfully assumed sole ownership of the Property. Defendant sold the Property to the Beaufort County School District

for \$886,000.00 on or around November 4, 2022. Defendant is the only grantor present on the deed conveying the Property to the Beaufort County School District. Defendant collected the full purchase price after the sale of the Property.

21. After selling the Property, Defendant purchased a home in North Carolina for around \$500,000.00.

22. A consolidated promissory note reflects that Gerald loaned \$24,000.00 to George through five payments while George was alive. George did not repay this borrowed money to Gerald before George's death.

23. Defendant informed George's family of his death, but she did not deliver a will of George to the Judge of the Probate Court having jurisdiction to admit the same within thirty days of receiving notice of George's death, as is required by S.C. Code § 62-2-901.

24. After learning of his brother's death and becoming aware that no will had been submitted for probate, Gerald, with the consent of George's children, filed a petition to open a probate matter regarding George's Estate based on his status as a creditor of George's Estate. On May 25, 2023, this Court appointed Gerald as the Personal Representative of George's Estate in *In the Matter of: George Francis Niesar*, Case No. 2023-ES-07-00417. (See **Exhibit A.**)

25. On October 13, 2023, Defendant's counsel in this matter sent Plaintiff's counsel a purported copy of George's Will dated December 17, 2018 (the "Purported Will"), stating that Defendant allegedly has the original Purported Will. This is the first time Gerald was ever made aware of the Purported Will. Gerald had never seen the Purported Will before, nor had George ever mentioned the Purported Will to Gerald while George was alive.

26. On January 31, 2024, Gerald filed in this Court his Answer opposing Defendant's Revised Petition and asserting a Counterclaim against Defendant for her violation of S.C. Code §

62-2-901. On February 9, 2024, Gerald also filed in this Court his Memorandum in Opposition to Appointment of Defendant as Personal Representative.

27. On February 12, 2024, the Honorable Heather R. Galvin, Beaufort County Probate Court, held a telephone status conference with counsel for Gerald and Defendant and decided to delay further proceedings in the Probate Court until the conclusion of the lawsuit filed by Gerald against Defendant in the United States District Court for the District of South Carolina, Beaufort Division (Civil Action No. 9:23-cv-04660-DCN) (the “Federal Action”).

28. On October 8, 2024, United States District Court Judge David C. Norton, presiding over the Federal Action, sent a letter to Judge Galvin raising his doubt that the District Court had subject matter jurisdiction over the Federal Action. In his letter, Judge Norton proposed that this Court lift its stay of the Estate administration proceedings and that the federal court stay its case pending resolution of the probate matter.

29. In response to this letter, on November 18, 2024, Associate Probate Judge Lindsay Sutcliffe held a status conference to discuss Judge Norton’s proposal. With the consent of both parties, Judge Sutcliffe lifted the stay of the Estate administration proceedings and informed Judge Norton of this plan. Judge Sutcliffe also stated that Gerald is free to bring the claims he asserted in the Federal Action in this Court.

FIRST CAUSE OF ACTION
(Conversion)

30. Plaintiff hereby incorporates by reference the allegations of the preceding paragraphs as if fully set forth herein.

31. George and Defendant jointly owned the Property in a joint tenancy with rights of survivorship during their marriage.

32. When George and Defendant divorced, their joint tenancy with rights of survivorship in the Property severed by operation of law because no governing instrument, court order, or contract relating to the division of the marital estate provided otherwise.

33. When George and Defendant entered into the contract to sell the Property on September 3, 2022, their ownership interest in the Property became personal property.

34. Because their divorce severed the interests of the former spouses in the Property as joint tenants with the right of survivorship, upon George's death, Defendant did not become owner of George's one-half interest in the Property.

35. Even though she is purportedly the sole beneficiary under George's will, her ownership right as a beneficiary with respect to the Property was subject to divestment upon any exercise of authority by a personal representative of the Estate.

36. The proceeds from the sale of the Property were subject to administration of the Estate and the claims of creditors of the Estate.

37. After George's death, Defendant exercised unauthorized control over and converted the proceeds from the sale of the Property.

38. Defendant, even after institution of this lawsuit setting forth her misconduct, has not provided any compensation to George's Estate or the creditors of the Estate from the sale of the Property.

SECOND CAUSE OF ACTION
(Breach of Fiduciary Duty/Liability as Executor de son tort)

39. Plaintiff hereby incorporates by reference the allegations of the preceding paragraphs as if fully set forth herein.

40. As the person designated to serve as Personal Representative in George's will, upon George's death, Defendant owed a fiduciary duty to George's Estate and the creditors of George's Estate.

41. Defendant obtained, received, and possessed property belonging to the decedent, George, upon his death. Specifically, Decedent obtained, received, and possessed the Property, the rights under the contract to sell the Property, and, upon the sale of the Property, one-half of the proceeds from the sale of the Property.

42. Defendant did not pay any valuable consideration equivalent to the value of one-half of the Property, George's rights under the contract to sell the Property, or one-half of the proceeds from the sale of the Property.

43. Pursuant to § 62-3-619 of the South Carolina Probate Code, Defendant shall be charged and chargeable as executor of her own wrong (executor de son tort) with respect to one-half of the value of the Property, George's rights pursuant to the contract to sell the Property, and one-half of the proceeds from the sale of the Property.

44. Pursuant to § 62-3-619 of the South Carolina Probate Code, the value of one-half of the value of the Property, George's rights pursuant to the contract to sell the Property, and one-half of the proceeds from the sale of the Property shall be deducted from any distribution or payment of any claim or commission to which Defendant as the executor de son tort is entitled to receive from George's Estate.

45. Defendant's rights to one-half of the value of the Property, George's rights pursuant to the contract to sell the Property, and one-half of the proceeds from the sale of the Property are all subject to the costs of administration of George's Estate, including legal fees incurred in good faith, as well as the claims of rightful creditors, including Gerald.

46. As a result of Defendant's misconduct, the Property, George's rights pursuant to the contract to sell the Property, and the proceeds from the sale of the property have been converted, wasted or otherwise damaged through improper interference.

47. Defendant is liable to George's Estate and Gerald for damages incurred by George's Estate and Gerald as a creditor of George's Estate, including attorney's fees, costs, and prejudgment interest.

THIRD CAUSE OF ACTION
(Disgorgement/Restitution/Constructive Trust)

48. Plaintiff hereby incorporates by reference the allegations of the preceding paragraphs as if fully set forth herein.

49. Defendant owed George, George's Estate, and the creditors of George's Estate a fiduciary duty as the Personal Representative as designated in George's purported will.

50. Defendant, in equity and good conscience, was bound to act in good faith and with due regard to the interests of George, George's Estate, and the creditors of George's Estate.

51. Defendant abused her fiduciary relationship and confidence that was reposed in her through the course of her improper conduct alleged herein, including her failure to submit the will for probate in a timely fashion, her failure to administer the Estate in accordance with the will and applicable law, and her wrongful retention of all of the proceeds from the sale of the Property in contravention of the rights of the Estate and Gerald as a creditor of the Estate.

52. Defendant obtained and retained the full proceeds from the sale of the Property through bad faith, abuse of confidence, and/or violation of a fiduciary duty, which give rise to an obligation in equity to make restitution to Plaintiffs by disgorging the portion of the proceeds from the Property's sale which are necessary to pay the costs of administration of the Estate, including

Gerald's rightful claim as a creditor of George's Estate and attorneys' fees incurred in good faith on behalf of George's Estate.

53. Defendant obtained and retained the full proceeds from the sale of the Property that do not equitably belong to her and which she cannot in good conscience retain or withhold from Plaintiff.

54. Defendant has been unjustly enriched through her improper course of conduct, including her bad faith, abuse of confidence, and/or violation of fiduciary duty.

55. Based upon the foregoing, Plaintiff is entitled to disgorgement, restitution, and/or the imposition of a constructive trust over the portion of the proceeds from the Property's sale that rightfully belongs to George's Estate that Defendant improperly retained for herself.

JURY DEMAND

WHEREFORE, having set out the foregoing Complaint against Defendant, Plaintiff hereby prays for the following relief:

1. Judgment against Defendant on all of Plaintiff's causes of action against Defendant in an amount to be determined by the trier of fact;
2. Judgment against Defendant for actual damages, consequential damages, special damages, the costs of this action, attorneys' fees, and litigation expenses;
3. Pre- and post-judgment interest on all damages awarded; and
4. Such other and further legal and equitable relief as this Court may deem just and proper.

[SIGNATURE ON FOLLOWING PAGE]

NELSON MULLINS RILEY & SCARBOROUGH LLP

By: _____



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*Attorneys for Plaintiff Gerald Viglione Niesar, individually and
as Personal Representative of the Estate of George Francis
Niesar*

Charleston, South Carolina
November 27, 2024

EXHIBIT A

FILED

2024 DEC -6 PM 12:48

PROBATE COURT
BEAUFORT COUNTY, SC

STATE OF SOUTH CAROLINA
COUNTY OF BEAUFORT

IN THE MATTER OF THE ESTATE OF:
GEORGE FRANCIS NIESAR
(Decedent)

)
)
)
)
)

IN THE PROBATE COURT

CERTIFICATE OF APPOINTMENT

CASE NUMBER: 2023ES0700417

This is to certify that

GERLAD V. NIESAR

is/are the duly qualified

- ☒ PERSONAL REPRESENTATIVE
- ☐ SUCCESSOR PERSONAL REPRESENTATIVE
- ☐ SPECIAL ADMINISTRATOR

In the above matter and that this appointment, having been executed on the 25th
day of May, 2023 is now in full force and effect.

RESTRICTIONS: NONE

Executed this 25th day of May, 2023.

Heather R. Galvin

Heather R. Galvin, Probate Judge

**Do not accept a copy of this certificate without
the raised seal of the Probate Court.**

STATE OF SOUTH CAROLINA	)	IN THE PROBATE COURT
	)	FOURTEENTH JUDICIAL CIRCUIT
COUNTY OF BEAUFORT	)	
	)	CASE NO.: 2023-ES-07-00417
IN THE MATTER OF:	)	
GEORGE FRANCIS NIESAR	)	
(Decedent)	)	
	)	
GERALD VIGLIONE NIESAR,	)	ANSWER & COUNTERCLAIM
Independently and as Personal	)	
Representative of the Estate of George	)	
Francis Niesar,	)	
	)	
Plaintiff,	)	
vs.	)	
	)	
CHRISTINE NEMETH,	)	
	)	
Defendant.	)	
_____	)	

NOW COMES THE DEFENDAT, CHRISTINE NEMETH TO ANSWER THE COMPLAINT IN THIS ACTION DATED NOVEMBER 27, 2024:

1. All allegations of the Summons and Complaint not hereinafter admitted are denied.
2. Defendant admits paragraphs 1, 2, 6, 7, 8, 9, 11, 12, 13, 14, 15, 16, 18, 19, 27, 28, 29 and 31.

FOR AN AFFIRMATIVE DEFENSE

12(b)6

3. The Defendant incorporates by reference and reiterates in its entirety Paragraphs 1 through 2 of the Answer and Counterclaim.
4. The Complaint fails to state facts sufficient to constitute a cause of action; to wit, by Plaintiff's own admission, the Defendant and George were co-owners of the property on Bull Tomb Road "and another property where they resided as joint tenants with right of survivorship."

5. When George died on October 7, 2022, the Defendant became the sole owner of the Bull Tomb Road property and the other property next door where George and the Defendant resided, by George's will making the Defendant his sole heir.

FOR AN AFFIRMATIVE DEFENSE
LACK OF STANDING

6. The Defendant incorporates by reference and reiterates in its entirety Paragraphs 1 through 5 of the Answer and Counterclaim.
7. Plaintiff lacks standing to bring this case against the Defendant as the Defendant has not harmed the Plaintiff in any way. The Plaintiff is not an heir by South Carolina inheritance law or Will of the decedent, George, who has two living children and there is no estate to probate.

FOR AN AFFIRMATIVE DEFENSE
S.C. CODE Ann § 19-11-20
DEAD MAN'S STATUTE

8. The Defendant incorporates by reference and reiterates in its entirety Paragraphs 1 through 7 of the Answer and Counterclaim.
9. The claims by the Plaintiff may be barred by the S.C. dead man's statute.

FOR AN AFFIRMATIVE DEFENSE
SCRPC 12(b)(8)
ANOTHER ACTION IS PENDING

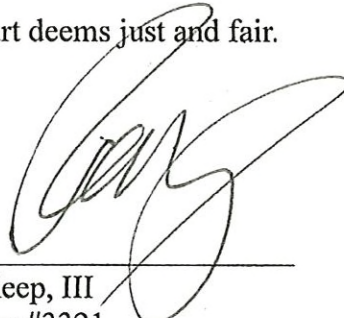
10. The Defendant incorporates by reference and reiterates in its entirety Paragraphs 1 through 9 of the Amended Complaint and Counterclaims.
11. Another action between the parties is currently pending in this Court, specifically Plaintiff, Gerald Viglione Niesar's Answer to Petitioner's Revised Petition for Formal Appointment and Counterclaim dated May 25, 2023.

FOR AN AFFIRMATIVE DEFENSE & COUNTERCLAIM

S.C. FRIVOLOUS PROCEDURES ACT (§15-36-10)

12. The Defendant incorporates by reference and reiterates in its entirety Paragraphs 1 through 11 of the Answer and Counterclaim.
13. The Complaint is entirely frivolous. Defendant requests attorney fees and sanctions.
14. The Plaintiff has no standing to sue. The Plaintiff is not an heir of George. The Plaintiff has not been injured or damaged by this Defendant. The Plaintiff is not named in George's 2018 will, which gives his entire estate to the Defendant. The Plaintiff filed a nearly identical suit in Federal Court which was essentially thrown out for lack of jurisdiction.

WHEREFORE, the Defendant requests the Plaintiff's case be dismissed for failure to state facts sufficient to constitute a cause of action, a determination Plaintiff lacks standing, his claims are barred by the Dead Man's Statute, a determination that the Complaint is frivolous, that the Complaint should be dismissed under SCRPC 12(b)(8) and the Defendant should be awarded attorney fees and for such other and further relief as the court deems just and fair.



Russ Keep, III
S.C. Bar #3321
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Hilton Head Island, SC 29938
(P) 843-842-6268
(F) 843-785-8458
hhlaw@hargray.com
Attorney for the Defendant/
Christine Nemeth

Beaufort County, SC
March 11, 2025

4. Paragraph 4 is a response to Plaintiff's Complaint to which no response is required. To the extent a response is required, Plaintiff denies the allegations in Paragraph 4.

5. Paragraph 5 is a response to Plaintiff's Complaint to which no response is required. To the extent a response is required, Plaintiff denies the allegations in Paragraph 5.

6. Plaintiff reincorporates his preceding responses as if set forth fully herein.

7. Paragraph 7 is a response to Plaintiff's Complaint to which no response is required. To the extent a response is required, Plaintiff denies the allegations in Paragraph 7.

8. Plaintiff reincorporates his preceding responses as if set forth fully herein.

9. Paragraph 9 is a response to Plaintiff's Complaint to which no response is required. To the extent a response is required, Plaintiff denies the allegations in Paragraph 9.

10. Plaintiff reincorporates his preceding responses as if set forth fully herein.

11. Paragraph 11 is a response to Plaintiff's Complaint to which no response is required. To the extent a response is required, Plaintiff denies the allegations in Paragraph 11.

FOR AN AFFIRMATIVE DEFENSE & COUNTERCLAIM
(S.C. Frivolous Civil Proceedings Sanctions Act, § 15-36-10)

12. Plaintiff reincorporates his preceding responses as if set forth fully herein.

13. Plaintiff denies the allegations in Paragraph 13.

14. Plaintiff denies the allegations in Paragraph 14.

15. Plaintiff denies Defendant is entitled to the relief requested in the unnumbered paragraph following Paragraph 14 of her Answer & Counterclaim.

FOR A SECOND DEFENSE
(Failure to state a claim for which relief may be granted)

16. Defendant's Counterclaim fails to state facts sufficient to constitute a cause of action and, therefore, must be dismissed pursuant to Rule 12(b)(6) of the South Carolina Rules of

Civil Procedure.

FOR A THIRD DEFENSE
(Ripeness)

17. Defendant's Counterclaim should be dismissed because it is not ripe for judicial review.

FOR A FOURTH DEFENSE
(Res Judicata / Collateral Estoppel)

18. Defendant's Counterclaim should be dismissed under the doctrines of res judicata and collateral estoppel.

FOR A FIFTH DEFENSE
(Law of the Case)

19. Defendant's Counterclaim should be dismissed under the law of the case doctrine because Defendant has already sought—and was denied—relief in this case under S.C. Code Ann. § 15-36-10.

FOR A SIXTH DEFENSE
(Limitation on Punitive Damages)

20. Pursuant to S.C. Code Ann. § 15-32-520, Plaintiff hereby requests trial bifurcation on the issues of actual damages and punitive damages. To the extent the Court submits the question of punitive damages to the jury, the award of punitive damages, if any, is subject to the caps and limitations set forth in S.C. Code Ann. § 15-32-530, and Plaintiff pleads and incorporates all defenses, limitations on damages, and other privileges contained in S.C. Code Ann. §§ 15-32-520 and 15-32-530 as if fully stated herein verbatim.

FOR A SEVENTH DEFENSE
(Unconstitutionality of Punitive Damages)

21. An award of punitive damages can and often does violate the South Carolina and United States constitutions under certain circumstances. Plaintiff reserves the right to challenge

any award of punitive damages on the basis that it is a violation of law, the United States Constitution and the South Carolina Constitution. Further, punitive damages are inappropriate in this case because Plaintiff has engaged in no malicious, wrongful, or intentional conduct upon which any award of such damages could be based.

FOR AN EIGHTH DEFENSE
(Reservation to Amend Defenses Based Upon Continued Investigation)

22. Plaintiff is still investigating the allegations in this case and hereby reserves the right to amend his defenses to Defendant's factual allegations, assert additional defenses, and/or to withdraw affirmative defenses listed above as additional facts and circumstances are discovered.

PRAYER FOR RELIEF

WHEREFORE, having fully answered Defendant's Answer & Counterclaim, Plaintiff respectfully requests the following relief:

1. Judgment against Defendant on all of Plaintiff's causes of action against Defendant in an amount to be determined by the trier of fact;
2. Judgment against Defendant on Defendant's Counterclaim;
3. Judgment against Defendant for actual damages, consequential damages, special damages, the costs of this action, attorneys' fees, and litigation expenses;
4. Pre- and post-judgment interest on all damages awarded; and
5. Such other and further legal and equitable relief as the Court may deem just and proper.

NELSON MULLINS RILEY & SCARBOROUGH LLP

By: 
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*Attorneys for Plaintiff Gerald Viglione Niesar, individually and
as Personal Representative of the Estate of George Francis
Niesar*

Charleston, South Carolina
April 8, 2025

BEAUFORT COUNTY PROBATE COURT

JUDGE
HEATHER R. GALVIN



ASSOCIATE JUDGE
LINDSAY A. SUTCLIFFE
HALEY G. FINNERAN

COUNTY COURTHOUSE
102 RIBAUT ROAD, BEAUFORT, SC 29902

April 24, 2025

VIA: EMAIL & U.S. MAIL

John P. Bozeman, Esquire
Robert H. Brunson, Esquire
PO Box 1806
Charleston, SC 29402-1806

Re: Estate of George Francis Niesar
Probate Court Case Number: 2023ES0700417

Dear Counselors:

This Court is in receipt of the Plaintiff's Reply to Defendant's Answer and Counterclaim as well as Plaintiff's Motion to Dismiss Defendant's Counterclaim. This Court understands the likeliness that these filings crossed in the mail with this Court's letter of April 3, 2025, which enclosed an Order removing these formal proceedings to Circuit Court. Regardless, in consideration of this Court's previously entered Order, the above mentioned Reply and Motion to Dismiss should be filed with the Circuit Court under case number 2025CP0700873.

Thank you for your attention to this matter.

Very truly yours,


Lindsay A. Sutcliffe
Associate Probate Judge

cc: Charles Russell Keep, III, Esquire (via email & U.S. Mail)
Ms. Catherine Niesar Heft (via U.S. mail only)
Mr. Eric Niesar (via U.S. mail only)

STATE OF SOUTH CAROLINA	)	
	)	
COUNTY OF BEAUFORT	)	IN THE COURT OF COMMON PLEAS FOURTEENTH JUDICIAL CIRCUIT

IN THE MATTER OF:	)	Case No. 2025-CP-07-00873
-------------------	---	---------------------------

GEORGE FRANCIS NIESAR	)	
(Decedent)	)	

GERALD VIGLIONE NIESAR,	)	
Individually and as Personal Representative of	)	
the Estate of George Francis Niesar,	)	
	)	
Plaintiff,	)	

**PLAINTIFF’S REPLY TO
DEFENDANT’S ANSWER &
COUNTERCLAIM**

vs.	)	
-----	---	--

CHRISTINE NEMETH,	)	
	)	
Defendant.	)	

Plaintiff Gerald Viglione Niesar (“Plaintiff”), by and through his undersigned counsel, hereby replies to the Counterclaim contained in Defendant Christine Nemeth’s (“Defendant”) Answer & Counterclaim filed on March 11, 2025¹, by denying the allegations of the Counterclaim not specifically admitted below and otherwise responding as follows:

FOR A FIRST DEFENSE

1. Paragraph 1 is a response to Plaintiff’s Complaint to which no response is required. To the extent a response is required, Plaintiff denies the allegations in Paragraph 1.
2. Paragraph 2 is a response to Plaintiff’s Complaint to which no response is required. To the extent a response is required, Plaintiff denies the allegations in Paragraph 2.
3. Paragraph 3 is a response to Plaintiff’s Complaint to which no response is required. To the extent a response is required, Plaintiff denies the allegations in Paragraph 3.

¹ This was originally filed in the Probate Court and served on April 8, 2025 before Plaintiff was aware the case was removed.

4. Paragraph 4 is a response to Plaintiff's Complaint to which no response is required. To the extent a response is required, Plaintiff denies the allegations in Paragraph 4.

5. Paragraph 5 is a response to Plaintiff's Complaint to which no response is required. To the extent a response is required, Plaintiff denies the allegations in Paragraph 5.

6. Plaintiff reincorporates his preceding responses as if set forth fully herein.

7. Paragraph 7 is a response to Plaintiff's Complaint to which no response is required. To the extent a response is required, Plaintiff denies the allegations in Paragraph 7.

8. Plaintiff reincorporates his preceding responses as if set forth fully herein.

9. Paragraph 9 is a response to Plaintiff's Complaint to which no response is required. To the extent a response is required, Plaintiff denies the allegations in Paragraph 9.

10. Plaintiff reincorporates his preceding responses as if set forth fully herein.

11. Paragraph 11 is a response to Plaintiff's Complaint to which no response is required. To the extent a response is required, Plaintiff denies the allegations in Paragraph 11.

FOR AN AFFIRMATIVE DEFENSE & COUNTERCLAIM
(S.C. Frivolous Civil Proceedings Sanctions Act, § 15-36-10)

12. Plaintiff reincorporates his preceding responses as if set forth fully herein.

13. Plaintiff denies the allegations in Paragraph 13.

14. Plaintiff denies the allegations in Paragraph 14.

15. Plaintiff denies Defendant is entitled to the relief requested in the unnumbered paragraph following Paragraph 14 of her Answer & Counterclaim.

FOR A SECOND DEFENSE
(Failure to state a claim for which relief may be granted)

16. Defendant's Counterclaim fails to state facts sufficient to constitute a cause of action and, therefore, must be dismissed pursuant to Rule 12(b)(6) of the South Carolina Rules of

Civil Procedure.

FOR A THIRD DEFENSE
(Ripeness)

17. Defendant's Counterclaim should be dismissed because it is not ripe for judicial review.

FOR A FOURTH DEFENSE
(Res Judicata / Collateral Estoppel)

18. Defendant's Counterclaim should be dismissed under the doctrines of res judicata and collateral estoppel.

FOR A FIFTH DEFENSE
(Law of the Case)

19. Defendant's Counterclaim should be dismissed under the law of the case doctrine because Defendant has already sought—and was denied—relief in this case under S.C. Code Ann. § 15-36-10.

FOR A SIXTH DEFENSE
(Limitation on Punitive Damages)

20. Pursuant to S.C. Code Ann. § 15-32-520, Plaintiff hereby requests trial bifurcation on the issues of actual damages and punitive damages. To the extent the Court submits the question of punitive damages to the jury, the award of punitive damages, if any, is subject to the caps and limitations set forth in S.C. Code Ann. § 15-32-530, and Plaintiff pleads and incorporates all defenses, limitations on damages, and other privileges contained in S.C. Code Ann. §§ 15-32-520 and 15-32-530 as if fully stated herein verbatim.

FOR A SEVENTH DEFENSE
(Unconstitutionality of Punitive Damages)

21. An award of punitive damages can and often does violate the South Carolina and United States constitutions under certain circumstances. Plaintiff reserves the right to challenge

any award of punitive damages on the basis that it is a violation of law, the United States Constitution and the South Carolina Constitution. Further, punitive damages are inappropriate in this case because Plaintiff has engaged in no malicious, wrongful, or intentional conduct upon which any award of such damages could be based.

FOR AN EIGHTH DEFENSE

(Reservation to Amend Defenses Based Upon Continued Investigation)

22. Plaintiff is still investigating the allegations in this case and hereby reserves the right to amend his defenses to Defendant's factual allegations, assert additional defenses, and/or to withdraw affirmative defenses listed above as additional facts and circumstances are discovered.

PRAYER FOR RELIEF

WHEREFORE, having fully answered Defendant's Answer & Counterclaim, Plaintiff respectfully requests the following relief:

1. Judgment against Defendant on all of Plaintiff's causes of action against Defendant in an amount to be determined by the trier of fact;
2. Judgment against Defendant on Defendant's Counterclaim;
3. Judgment against Defendant for actual damages, consequential damages, special damages, the costs of this action, attorneys' fees, and litigation expenses;
4. Pre- and post-judgment interest on all damages awarded; and
5. Such other and further legal and equitable relief as the Court may deem just and proper.

NELSON MULLINS RILEY & SCARBOROUGH LLP

By: /s/ Robert H. Brunson

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John P. Bozeman (S.C. Bar No. 105262)

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(843) 853-5200

*Attorneys for Plaintiff Gerald Viglione Niesar, individually and
as Personal Representative of the Estate of George Francis
Niesar*

Charleston, South Carolina
April 25, 2025

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
BEAUFORT DIVISION

Gerald Viglione Niesar, individually and as)	
Personal Representative of the Estate of)	Civil Action Case No. 9:23-cv-04660-DCN
George Francis Niesar,)	
Plaintiff,)	
)	
Vs.)	MOTION FOR SUMMARY JUDGMENT
)	
Christine Nemeth,)	
Defendant.)	
_____)	

TO: ROBERT BRUNSON, ESQ., ATTORNEY FOR THE PLAINTIFF:

YOU WILL PLEASE TAKE NOTICE that Defendant, by and through her undersigned attorney, will move on the _____ day of _____, 2024 at _____ o'clock a.m./p.m. before the United States District Court, Beaufort Division, pursuant to FRCP 56 and will at that time ask the Court to dismiss the Amended Complaint for the following reasons;

1. **FRCP Rule 12(b)(1)** The Plaintiff's prayer for relief, paragraph 26 of the Amended Complaint dated October 24, 2023, states he is owed \$24,000.00 from the estate of George Francis Niesar. This Honorable Court lacks jurisdiction as the controversy is not \$75,000.00 or more, 28 U.S.C. §1332. This case should be remanded to Beaufort County Probate Court case number 2023-ES-07-00417.
2. **FRCP 12(b)(6)** At the time of George F. Niesar's death, the Plaintiff was not an heir of George Francis Niesar (Will, attachment A). This is a probate matter.
3. **FRCP12(b)(6)** The real property in question that the Plaintiff refers to in his Complaint was deeded to the decedent, George Francis Niesar and the Defendant as joint tenants with

right of survivorship (attachment B). This matter should be remanded and heard in the Beaufort County Probate Court case number 2023-ES-07-00417.

4. **FRCP12(b)(6)** The Divorce Decree between George Francis Niesar and the Defendant does not mention the property in question and so its joint status with right of survivorship remains in effect (attachment C). Paragraph 36 of the Amended Complaint states, “After George and Defendant divorced their joint tenancy with right of survivorship in the property severed.” This is nonsense, especially as George named Christine sole heir in his 2018 Last Will and Testament. At any rate, this is a matter that should be remanded and addressed in the Beaufort County Probate Court case number 2023-ES-07-00417.
5. **FRCP 12(b)(8)** There is another action pending between the same parties in Beaufort County, SC Probate case number 2023-ES-07-00417 (attachment D). Plaintiff’s claim for \$24,000.00 should be remanded to Beaufort County Probate Court.
6. **28 U.S.C. 1447(d)** The case should be remanded to Beaufort County Probate Court pursuant to 28 U.S.C. 1447(d) for lack of subject matter jurisdiction.

WHEREFORE, For the above stated Federal Rules of Civil Procedure and the above stated Federal Statutes, this case should be dismissed and remanded to the state probate court with an award of attorney fees.

Beaufort County, SC
February 8, 2024

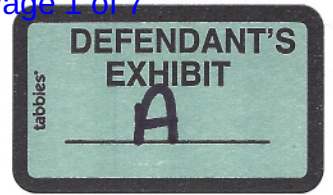
s/Russ Keep, III
Russ Keep, III
S.C. Bar #3321
Post Office Box 5877
Hilton Head Island, SC 29938
(P) 843-842-6268
(F) 843-785-8458
hhlaw@hargray.com
Attorney for the Defendant/
Christine Nemeth

CERTIFICATE OF SERVICE

I, Russ Keep, hereby certify that this document has been filed through the ECF system and will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF) and paper copies will be sent to those indicated as non-registered participants on this date.

s/Russ Keep, III

Date: February 8, 2024



LAST WILL AND TESTAMENT

LAST WILL AND TESTAMENT
OF
GEORGE FRANCIS NIESAR

Dated: December 17, 2018

Prepared by:

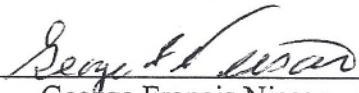
Legal Assistance Office
MCRD Parris Island
27 Atsugi St., Bldg 400
Parris Island, SC 29905
843-228-2559

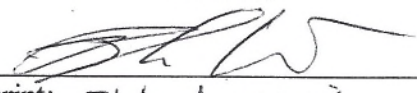
B6 SW
376
[Signature]

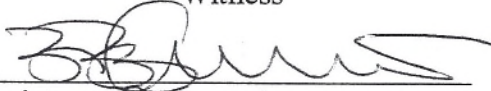
MILITARY TESTAMENTARY INSTRUMENT SELF-PROVING AFFIDAVIT

STATE OF SOUTH CAROLINA, COUNTY OF BEAUFORT

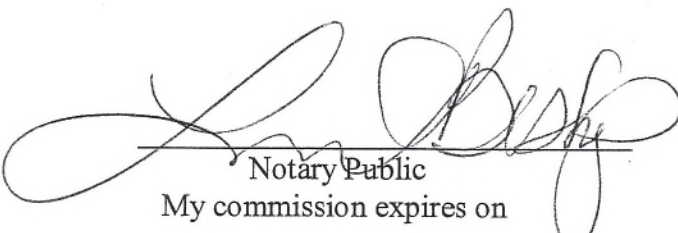
We, the Testator and the witnesses, whose names are signed to the attached or foregoing instrument, being first duly sworn, do hereby declare to the undersigned authority that in the presence of the military legal counsel and the witnesses the Testator, George Francis Niesar, signed and executed the instrument as his military testamentary instrument, that he had signed willingly, and that he executed it as his free and voluntary act and deed for the purposes therein expressed. It is further declared that each of the witnesses, at the request of the Testator, in the presence and hearing of the Testator, the military legal assistance counsel and each other, signed the military testamentary instrument as witness, and that to the best of his or her knowledge the Testator was at the time at least eighteen years of age or emancipated, of sound mind, and under no constraint, duress, fraud or undue influence.


George Francis Niesar
Testator

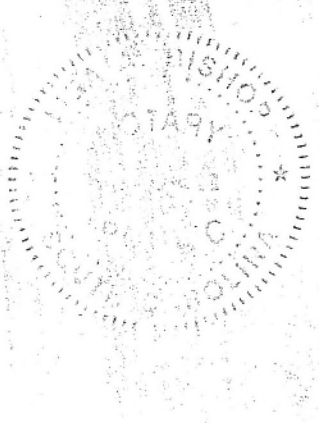

print: Blake A. Morris
Witness


print: Z. Bennington
Witness

Subscribed, sworn to and acknowledged before me by the said George Francis Niesar, Testator, and subscribed and sworn to before me by the above-named witnesses, this 17th day of December, 2018.


Notary Public
My commission expires on

LISA A. BISHOP
SOUTH CAROLINA
NOTARY PUBLIC
EXP. 14 APR 25



SM 35
Can
77

MILITARY TESTAMENTARY PREAMBLE: This is a MILITARY TESTAMENTARY INSTRUMENT prepared pursuant to Title 10 United States Code, Section 1044d, and executed by a person authorized to receive legal assistance from the military services. Federal law exempts this document from any requirement of form, formality, or recording that is prescribed for testamentary instruments under the laws of a state, the District of Columbia, or a territory, commonwealth or possession of the United States. Federal law specifies that this document shall be given the same legal effect as a testamentary instrument prepared and executed in accordance with the laws of the jurisdiction in which it is presented for probate. It shall remain valid unless and until the Testator revokes it.

LAST WILL AND TESTAMENT

OF

GEORGE FRANCIS NIESAR

I, George Francis Niesar, a resident of the State of South Carolina, make, publish and declare this to be my Last Will and Testament, revoking all wills and codicils at any time heretofore made by me. I am retired from the military service of the United States.

FIRST: I direct that the expenses of my last illness and funeral, the expenses of the administration of my estate, and all estate, inheritance and similar taxes payable with respect to property included in my estate, whether or not passing under this will, and any interest or penalties thereon, shall be paid out of my residuary estate, without apportionment and with no right of reimbursement from any recipient of any such property.

SECOND: It is my desire that, upon my death, I be cremated and that Christine Nemeth have full authority over my remains. I have not contracted for or paid for any funeral arrangements.

THIRD: I give to my daughter Catherine Heft, if she survives me, the smallest portion of my estate, if any, required to be given to my daughter Catherine Heft under applicable law, after taking into account the aggregate value of any other property passing to them under this will or otherwise. It is my desire and intent that my daughter Catherine Heft be disinherited by me to the fullest extent permitted by law. All provisions of this will, including without limitation any provisions which may refer to "my daughter Catherine Heft" or "issue", and any provisions which may refer to persons taking by intestacy, shall be construed to effectuate such disinheritance of my daughter Catherine Heft.

FOURTH: I give all my real estate, and all rights that I have under any related insurance policies, to my friend Christine Nemeth, if she survives me.

FIFTH: I give all tangible personal property owned by me at the time of my death, including without limitation personal effects, clothing, jewelry, furniture, furnishings, household goods, automobiles and other vehicles, and all rights that I have under any related insurance policies, to my friend Christine Nemeth, if she survives me.

B3 Bam
9/78



SIXTH: I give all the rest, residue and remainder of my property and estate, both real and personal, of whatever kind and wherever located, that I own or to which I shall be in any manner entitled at the time of my death (collectively referred to as my "residuary estate"), as follows:

(a) To that of my friend Christine Nemeth, if she survives me, to Christine Nemeth outright.

(b) If Christine Nemeth does not survive me, then my residuary estate shall be paid and distributed to my brother Gerald Niesar if he shall survive me. If none of the aforesaid beneficiaries of my residuary estate shall survive me, my residuary estate shall be paid and distributed to my son Eric Niesar if he shall survive me.

(c) If none of the beneficiaries described in clauses (a) and (b) above shall survive me, then I give my residuary estate to those who would take from me as if I were then to die without a will, unmarried and the absolute owner of my residuary estate, and a resident of the State of South Carolina.

SEVENTH: If any property of my estate vests in absolute ownership in a minor or incompetent, my personal representative, at any time and without court authorization, may: distribute the whole or any part of such property to the beneficiary; or use the whole or any part for the health, education, maintenance and support of the beneficiary; or distribute the whole or any part to a guardian, committee or other legal representative of the beneficiary, or to a custodian for the beneficiary under any gifts to minors or transfers to minors act, or to the person or persons with whom the beneficiary resides. Evidence of any such distribution or the receipt therefor executed by the person to whom the distribution is made shall be a full discharge of my personal representative from any liability with respect thereto, even though my personal representative may be such person. If such beneficiary is a minor, my personal representative may defer the distribution of the whole or any part of such property until the beneficiary attains the age of eighteen (18) years, and may hold the same as a separate fund for the beneficiary with all of the powers described in Article EIGHTH hereof. If the beneficiary dies before attaining said age, any balance shall be paid and distributed to the estate of the beneficiary.

EIGHTH: I appoint my friend Christine Nemeth to be my personal representative. I direct that no personal representative shall be required to file or furnish any bond, surety or other security in any jurisdiction.

NINTH: I grant to my personal representative all powers conferred on personal representatives and executors under the South Carolina Probate Code, as amended, or any successor thereto, and all powers conferred upon personal representatives and executors wherever my personal representative may act. I also grant to my personal representative power to retain, sell at public or private sale, exchange, grant options on, invest and reinvest, and otherwise deal with any kind of property, real or personal, for cash or on credit; to hold, manage, insure, repair, improve, demolish, divide, and otherwise deal with and dispose of any property; to borrow money and mortgage, encumber or pledge any property to secure loans; to pay any legacy or distribute, divide or partition property in cash or in kind, or partly in kind, and to allocate different kinds of

property, disproportionate amounts of property and undivided interests in property among any parts, funds or shares; to determine the fair valuation of property, with or without regard to tax basis; to exercise all powers of an absolute owner of property; to compromise and release claims with or without consideration; and to employ attorneys, accountants and other persons for services or advice. The term "personal representative" wherever used herein shall mean the personal representatives, executors, executor, executrix or administrator in office from time to time.

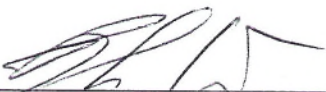
TENTH: I direct that for purposes of this will a beneficiary shall be deemed to predecease me unless such beneficiary survives me by more than thirty days.

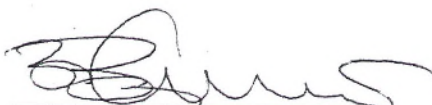
ELEVENTH: I have served in the Armed Forces of the United States. I therefore request that my personal representative make appropriate inquiries to ascertain whether there are any benefits to which I, my dependents or my heirs may be entitled by virtue of any military affiliation. I specifically request that my personal representative consult with a retired affairs officer at the nearest military installation, the Department of Veterans Affairs, and the Social Security Administration.

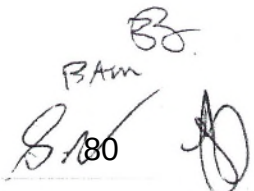
IN WITNESS WHEREOF, I, George Francis Niesar, sign my name and publish and declare this instrument as my last will and testament this 17th day of December, 2018.


George Francis Niesar

The foregoing instrument was signed, published and declared by George Francis Niesar, the above-named Testator, to be his last will and testament in our presence, all being present at the same time, and we, at his request and in his presence and in the presence of each other, have subscribed our names as witnesses on the date above written.


Print: Blake A. Morris
having an address at:
Depot Law Center
Parris Island, South Carolina 29905


Print: Z. Bennington
having an address at:
Depot Law Center
Parris Island, South Carolina 29905


BAm
8-180

DEFENDANT'S
EXHIBIT

B

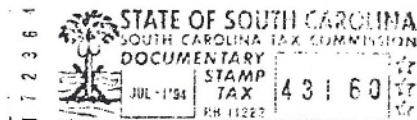
State of South Carolina,

COUNTY OF Beaufort

24488

BEAUFORT COUNTY TAX MAP REFERENCE

Dist.	Map	Submap	Parcel	Block
600	29		34	



J. S. P. / J. S. P. / dms

505

File Number:

2650.003

BEAUFORT COUNTY, SC
REVENUE STAMPS COLLECTED
STATE 431.60 COUNTY 182.60
Real Estate Transfer Fee Collected
\$ 415.00

KNOW ALL MEN BY THESE PRESENTS, THAT

Raymond E. Jimison and Sandra H. Jimison

in the State aforesaid for and in consideration of the sum of
Ten and no/100 (\$10.00) DOLLARS,

and other valuable consideration to us in hand paid at and before the sealing of these presents by
George F. Niesar and Christine Niesar, 1 Bull Tomb Road, Bluffton, S.C. 29910

in the State aforesaid
for which the receipt whereof is hereby acknowledged, have

granted, bargained, sold and released, and by these Presents do grant, bargain, sell and release unto the said
George F. Niesar and Christine Niesar as joint tenants, with rights of survivorship, and
not as tenants in common, their heirs and assigns forever, the following described
property, to-wit:

ALL that certain piece, parcel or lot of land situate, lying and being in
Bluffton Township, Beaufort County, South Carolina, being a five (5) acre
parcel as shown on that certain plat prepared by Richard Kesselring, R.L.S.
#8105, dated June 27, 1994, entitled "A Map of A 5.00 Acres Parcel Cut From
Lands N/F of George F. and Christine Niesar As Recorded in the Office of the
Recorder for Mesne Conveyance for Beaufort County, S.C." Said plat is
recorded in the Office of the Register of Mesne Conveyances for Beaufort
County, South Carolina in Plat Book 50 at Page 32. For a more
detailed description of the property, referenced is craved to said Plat.

TOGETHER with all right, title and interest to that certain right of way
easement to Bull Tomb Road as referenced in said RMC Office in Deed Book 339
at Page 1187.

SUBJECT however to all applicable covenants, restrictions, easements, etc. of
record which are applicable to the property.

THIS being the same property or a portion thereof conveyed to Raymond E.
Jimison and Sandra H. Jimison by Deed of Decatur Federal Savings & Loan
Association dated December 21, 1992 and recorded in said RMC Office in Deed
Book 615 at Page 1180.

THE within Deed was prepared by JONES, SCHEIDER & PATTERSON, P.A., Post Office
Drawer 7049, Hilton Head Island, South Carolina 29938, by James P. Scheider,
Jr., Esquire.

BEAUFORT COUNTY TAX MAP REFERENCE: District 600, Map 29, Parcel _____.

506

TOGETHER with all and singular, the Rights, Members, Hereditaments and Appurtenances to the said Premises belonging, or in anywise incident or appertaining.

TO HAVE AND TO HOLD, all and singular, the said Premises before mentioned unto the said George F. Niesar and Christine Niesar as joint tenants, with rights of survivorship, and not as tenants in common, their Heirs and Assigns forever.

507

AND we do hereby bind ourselves and our Heirs, Assigns.

Executors and Administrators, to warrant and forever defend, all and singular, the said Premises unto the said

George F. Niesar and Christine Niesartheir Heirs and Assigns, against us and our Heirs, and all persons whomsoevermay come lawfully claiming, or to claim the same or any part thereof.WITNESS our Hand a and Seal a, this 30th day of Junein the year of our Lord one thousand nine hundred and ninety four and in the two hundred andeighteenth year of the Sovereignty and Independence of the United States of America.SIGNED, SEALED AND DELIVERED
IN THE PRESENCE OFWitness George L. HandeltRaymond E. Jimison (L.S.)Notary Public Virginia L. WinesSandra H. Jimison (L.S.)
Sandra H. JimisonThe State of South CarolinaBeaufort County.PERSONALLY appeared before me the undersigned witnessand made oath that (s)he saw the within named Raymond E. Jimison and Sandra H. Jimisonsign, seal, and as their act and deed, deliver the within written Deed,and that (s)he with the other witness whose signature appears above as witnesswitnessed the execution thereof.SWORN to before me, this 30thday of June A.D. 19 94Virginia L. Wines (SEAL)Notary Public of SC
My Commission Expires: 2/4/2004

Witness

NOT NECESSARY

The State of

RENUNCIATION OF DOWER

County.

I, _____, a Notary Public for _____

do hereby certify unto all whom it may concern, that Mrs. _____

the wife of the within named

did this day appear before me, and upon being privately and separately examined by me, did declare that she

does freely, voluntarily, and without any compulsion, dread or fear of any person or persons whomsoever,

renounce, release and forever relinquish unto the within named _____

Heirs and assigns, all her interest and estate, and also all her right and claim of dower, of, in or to all and singular the premises within mentioned and released.

Given under by Hand and Seal, this _____ day of _____ Anno Domini 19 _____

(SEAL)
Notary Public of
My Commission Expires:

Signature of

OPP 2597
FILED 2590
JOHN A. SULLIVAN, JR.
R.M.C.
BEAUFORT COUNTY, S.C.
JUL -1 AM 11:41
BK 716 PG 505
FOLDER #

508

RECORDED THIS 1 DAY
OF August 1994
IN BOOK 88 PAGE 666
Mary B. Shanks
AUDITOR, BEAUFORT COUNTY, S.C.

4
10/23
State of South Carolina

1144

COUNTY OF BeaufortSTATE OF SOUTH CAROLINA
SOUTH CAROLINA TAX COMMISSION

DOCUMENTARY

JUL 18 '96
PB 11222STAMP
TAX

78.00

File Number:

2650.002

28361

YOUR TAX NOTICE WILL BE SENT TO
THE ADDRESS SHOWN ON YOUR DEED
IF YOUR DEED WAS RECORDED BY
SEPTEMBER 15. IF THE ADDRESS IS
INCORRECT, PLEASE NOTIFY THE
COUNTY ASSESSOR.

BEAUFORT COUNTY, SC
YOUR COUNTY'S OFFICE
DATE OF NOTICE AND RECEIPT
PLEASE CONTACT THE COUNTY ASSESSOR
OFFICE FOR FURTHER INFORMATION

BEAUFORT COUNTY, SC
REVENUE STAMPS COLLECTED
STATE 78.00 COUNTY 33.00
Real Estate Transfer Fee Collected
\$ 75.00

KNOW ALL MEN BY THESE PRESENTS, THAT

Raymond E. Jimison and Sandra H. Jimison

in the State aforesaid for and in consideration of the sum of
Ten and no/100 (\$10.00) DOLLARS,

and other valuable consideration to us in hand paid at and before the sealing of these presents by
George F. Niesar and Christine Niesar,

1 Bull Tomb Road, Bluffton, SC 29910 in the State aforesaid
for which the receipt whereof is hereby acknowledged, have

granted, bargained, sold and released, and by these Presents do grant, bargain, sell and release unto the said
George F. Niesar and Christine Niesar as joint tenants, with rights of survivorship, and
not as tenants in common, their heirs and assigns forever, the following described
property, to-wit:

SEE ATTACHED EXHIBIT "A" FOR PROPERTY DESCRIPTION

BEAUFORT COUNTY TAX MAP REFERENCE

Dist.	Map	Submap	Parcel	Block
1600	24		11A	

1145

EXHIBIT "A"

ALL that certain piece, parcel or lot of land, situate, lying and being in Bluffton Township, Beaufort County, South Carolina, said parcel containing twenty-five (25) acres, said twenty-five (25) acre parcel being the westernmost twenty-five (25) acres of a forty-four (44) acre parcel, as more specifically shown and described on a Plat thereof entitled "Survey for Manfred Raich", said Plat dated January 8, 1982 and recorded in the Office of the Register of Mesne Conveyances for Beaufort County, South Carolina in Plat Book 30 at Page 36.

Said parcel is further described by reference to adjoining properties, on the north by lands now or formerly of R. J. Davis; on the east by lands now or formerly of Union Bag and Paper Corporation; on the south by lands now or formerly of Union Bag and Paper Corporation; and on the west by lands now or formerly of the heirs of Tobby Jones, Jr.

SAVE AND EXCEPT from such twenty-five (25) acre parcel all that certain five (5.00) acre parcel, said parcel more specifically shown and described on a Plat thereof entitled "A Map of a Five (5.00) Acres Parcel Cut From Lands Now Formerly of George F. and Christine Nieser" as recorded in the Office of Register of Mesne Conveyances for Beaufort County, South Carolina, said Plat dated June 27, 1994 in Plat Book 50 at Page 32.

Said five (5.00) acre parcel excluded from the within conveyance is more specifically described as to metes and bounds as follows, to wit: Commencing at a point on the northwest corner of said five (5.00) acre parcels adjoining the lands now or formerly of T.J. Davis, thence north 89 degrees 42 minutes 58 seconds east for a distance of 192.02 feet to a point; thence north 57 degrees 16 minutes 43 seconds east for a distance of 56.68 feet to a point; thence north 89 degrees 20 minutes 39 seconds east for a distance of 210.00 feet to a point; thence south 00 degrees, 39 minutes 21 seconds east for distance of 498.13 feet to a point; thence south 89 degrees 20 minutes 39 seconds west for a distance of 450.05 feet to a point; thence north 00 degrees 39 minutes 21 seconds west for a distance of 469.29 feet to a point, said point being the point of beginning.

Together with all right, title and interest in and to that certain "right-of-way easement" to Bull Tomb Road, said easement record in the Office of the Register of Mesne Conveyances for Beaufort County, South Carolina in Deed Book 339 at Page 1187.

Subject however to all applicable covenants, restrictions, easements, etc. of record which are applicable to the property.

This being the same property or portion thereof could convey to Raymond E. Jimison and Sandra H. Jimison by Deed of Decatur Federal Savings & Loan Association, said Deed dated December 21, 1992 and recorded in the Office of the Register of Mesne Conveyances for Beaufort County, South Carolina in Deed Book 615 at Page 1180.

The within Deed was prepared in the Law Offices of Jones, Scheider & Patterson, P.A., P.O. Drawer 7049, Hilton Head Island, South Carolina by James P. Scheider, Jr., Esquire (803-842-6111).

BEAUFORT COUNTY TAX MAP REFERENCE: DISTRICT 600, MAP 29, PARCEL 11 A

1146

TOGETHER with all and singular, the Rights, Members, Hereditaments and Appurtenances to the said Premises belonging, or in anywise incident or appertaining.

TO HAVE AND TO HOLD, all and singular, the said Premises before mentioned unto the said George F. Niesar and Christine Niesar as joint tenants, with rights of survivorship, and not as tenants in common, their Heirs and Assigns forever.

AND: we do hereby bind ourselves, and our Heirs, Assigns 1147

Executors and Administrators, to warrant and forever defend, all and singular, the said Premises unto the said George F. Niesar and Christine Niesar

their Heirs and Assigns, against us and our Heirs, and all persons whomsoever may come lawfully claiming, or to claim the same or any part thereof.

WITNESS our Hand s and Seal s, this 30TH day of June in the year of our Lord one thousand nine hundred and ninety four and in the two hundred and eighteenth year of the Sovereignty and Independence of the United States of America.

SIGNED, SEALED AND DELIVERED
IN THE PRESENCE OF

Virginia L. Niesar
Witness

Raymond E. Jimison (L.S.)

George F. Niesar
Notary Public

Sandra H. Jimison (L.S.)
Sandra H. Jimison

The State of South Carolina

Beaufort County.

PERSONALLY appeared before me the undersigned witness

and made oath that (s)he saw the within named Raymond E. Jimison and Sandra H. Jimison

sign, seal, and as their act and deed, deliver the within written Deed, and that (s)he with the other witness whose signature appears above as witness

witnessed the execution thereof.

SWORN to before me, this 30TH

day of June A.D. 19 94

George F. Niesar (SEAL)
Notary Public of
My Commission Expires: 07/01/03

Virginia L. Niesar
Witness

NOT NECESSARY

The State of

RENUNCIATION OF DOWER

County.

I, _____, a Notary Public for _____

do hereby certify unto all whom it may concern, that Mrs. _____

_____ the wife of the within named _____

did this day appear before me, and upon being privately and separately examined by me, did declare that she does freely, voluntarily, and without any compulsion, dread or fear of any person or persons whomsoever, renounce, release and forever relinquish unto the within named _____

Heirs and assigns, all her interest and estate, and also all her right and claim of dower, of, in or to all and singular the premises within mentioned and released.

Given under by Hand and Seal, this _____ day of _____ Anno Domini 19 _____

(SEAL)
Notary Public of
My Commission Expires:

Signature of

Van FILED 4976
JOHN A. SULLIVAN, JR.
R.M.C.
BEAUFORT COUNTY, S.C. /*ML*
96 JUL 18 AM 11:16
BN 874 PG 1144
FOLDER #

1148

RECORDED THIS 6th DAY
OF August 19 96
IN BOOK AC PAGE 889
Mary B. Shaw
AUDITOR, BEAUFORT COUNTY, S.C.

Elizabeth M. Smith, Clerk of Court
Beaufort County SCDEFENDANT'S
EXHIBIT

tabbies

C

STATE OF SOUTH CAROLINA)

COUNTY OF BEAUFORT)

CHRISTINE NIESAR,)

Plaintiff,)

vs.)

GEORGE F. NIESAR,)

Defendant.)

IN THE FAMILY COURT
CASE NO.: 2007-DR-07-616

FINAL ORDER OF DIVORCE

FAMILY COURT
BEAUFORT COUNTY
BEAUFORT, S.C.

2007 JUL 18 PM 4:32

DATE OF HEARING:

July 20, 2007

PRESIDING JUDGE:

The Honorable F. P. Segas-Andrews

PLAINTIFF'S ATTORNEY:

Mary Kay Siren

DEFENDANT'S ATTORNEY:

pro se

COURT REPORTER:

Deborah Anderson

This matter is before this Court upon the Plaintiff's filing of a Summons and Complaint for a divorce filed on May 7, 2007 with the Clerk of Court for Beaufort County, South Carolina. The Defendant accepted service and filed an Answer on May 22, 2007. The Defendant accepted service of the Notice of Hearing on June 4, 2007.

The Plaintiff, her attorney, Mary Kay Siren; and the Defendant were present at the hearing but was not represented by counsel.

FINDINGS OF FACT

Based upon the pleadings before me and the testimony presented, I make the following findings of fact:

1. The Plaintiff is a citizen and resident of Tavernier, Florida.
2. The Defendant is a citizen and resident of Beaufort County, South Carolina and has been for more than one year prior to the initiation of this action.

1

15. I find that the parties shall each pay his or her own attorney's fees and costs in this matter.

16. The Court inquired of both parties as to whether reconciliation was possible.

Both parties indicated reconciliation was not possible.

CONCLUSIONS OF LAW

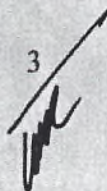
Based upon the above findings of fact and applicable law, this Court concludes as follows:

1. This Court has jurisdiction over the parties and the subject matter hereto.
2. The Plaintiff is entitled to a divorce, a vinculo matrimonii, from the Defendant on the grounds of one year's continuous separation without cohabitation.
3. The parties voluntarily appeared before this Court and they have voluntarily submitted themselves to the jurisdiction of this Court.

THEREFORE, based upon the findings of fact and conclusions of law set forth above, it is ORDERED:

- a. The Plaintiff is granted a divorce, a vinculo matrimonii, from the Defendant on the grounds of one year's separation without cohabitation;
- b. That the Plaintiff's home located in Westbury Park in Bluffton, South Carolina, shall be sold, the mortgage shall be paid in full, and any remaining proceeds shall be distributed to the Defendant. Further, the Defendant shall continue to pay the mortgage payments, taxes, and insurance on said home until it is sold;
- c. That the parties have divided their personal property to his and her satisfaction;
- d. That each party shall retain possession of the automobile which he or she is

3



presently driving and each shall pay any remaining indebtedness, insurance, taxes and maintenance thereon;

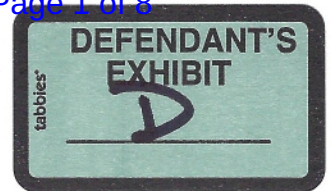
- e. That neither party should receive temporary support and/or alimony, one from the other;
- f. That the parties have divided their bank accounts to their mutual satisfaction;
- g. That the parties shall each keep their respective retirement accounts;
- h. That the Plaintiff shall resume the use of her maiden name of Studer; and
- i. That the parties shall each pay his or her own attorney's fees and costs in this matter.

AND IT IS SO ORDERED, this 18 day of July, 2007.

Wayne M. Creel
~~For Signature and Seal~~
Family Court Judge

Brought, South Carolina

4
me



C. RUSSELL KEEP, III

ATTORNEY

SUITE 303, WATERSEDGE

SHELTER COVE HARBOUR

POST OFFICE DRAWER 5877

HILTON HEAD ISLAND, SC 29938

(843) 842-6268

FAX (843) 785-8458

HHILAW@HARGRAY.COM

January 17, 2024

Beaufort County Probate Court
Post Office Box 1083
Beaufort, SC 29901

**Re: 300ES Form – Formal
Amended Reply
George Francis Niesar - Decedent
Christine Nemeth - Applicant**

Dear Probate Court,

As directed, please find enclosed in duplicate for filing a revised Summons and Petition and an Amended Reply. I have signed the revised Petition, only adding Catherine Niesar Heft and Eric Niesar as Respondents on my client's behalf. I also enclose for filing a Proof of Service. Please file these documents accordingly and return clocked-in copies to me in the enclosed SASE. Thank you.

With warmest, personal regards, I remain

Very truly yours,

RUSS KEEP, III, ESQ.

CRK/kmm
enclosures

cc: Christine Nemeth w/ enclosures
cc: Catherine Niesar Heft w/ enclosures
cc: Eric Niesar w/ enclosures
cc: Robert Brunson, Esq. w/ enclosures

***My new email address is thehhlaw@gmail.com. Please do not use my Hargray email address on the top of this letterhead as Hargray has discontinued its email service. Thank you.**

STATE OF SOUTH CAROLINA

COUNTY OF BEAUFORT

IN THE MATTER OF:

GEORGE FRANCIS NIESAR,

☒ Decedent ☐ Alleged Incapacitated Individual
☐ Minor ☐ Other: _____

▲ PROBATE COURT USE ONLY ▲

IN THE PROBATE COURT

CASE NUMBER 2023-GC-07- 00417

SUMMONS

CHRISTINE NEMETH,

Petitioner(s),

vs.

Gerald Viglione Niesar, Catherine Niesar Heft and Eric
Niesar

Respondent(s).*

*For Guardianship/Conservatorship matters, you must include the alleged incapacitated individual as a Respondent.

TO THE RESPONDENT(S) LISTED ABOVE:

YOU ARE HEREBY SUMMONED and required to Answer the Petition in this action, a copy of which is herewith served upon you, and to serve a copy of your Answer upon the Petitioner(s) listed above at the following address(es):

Please Type or Print.

Christine Nemeth / Russ Keep, Esq.

(Name of Petitioner/Attorney for Petitioner)

Post Office Box 5877

(Street Address or Mailing Address)

Hilton Head Island, SC 29938

(City, State, and Zip Code)

Your Answer must be served on the Petitioner at the above address within **thirty (30) days** after the service of this Summons and Petition upon you, exclusive of the day of such service; and if you fail to answer the Petition within that time, judgment by default will be rendered against you for the relief demanded in the Petition.

Date:

17 Jan / 24

Signature of Petitioner(s)/Attorney for Petitioner(s)

STATE OF SOUTH CAROLINA

COUNTY OF: BEAUFORT

IN THE MATTER OF:
GEORGE FRANCIS NIESAR
(Decedent)

IN THE PROBATE COURT

CASE NUMBER: 2023-ES-07-00417

***COMPLETE THIS SECTION ONLY IF FILING PETITION
FOR FORMAL TESTACY AND/OR FORMAL APPOINTMENT***Christine Nemeth,
Petitioner(s)
vs.*Gerald V. Niesar, Catherine Niesar Heft and Eric Niesar,
Respondent(s)**APPLICATION FOR INFORMAL**

(check any that apply)

- ☐
- PROBATE OF WILL
-
- ☐
- APPOINTMENT

***PETITION FOR FORMAL**

- ☒
- TESTACY
-
- ☒
- APPOINTMENT

If this is a formal filing, please explain on page 4 or attach pleadings pursuant to *SC Rules of Civil Procedure*.***NOTE: IF THIS IS A FORMAL PROCEEDING, IN ADDITION TO THIS FORM PETITION, YOU MUST ALSO FILE
A SUMMONS (FORM SCCA 401PC), AND PAY THE STATUTORY FILING FEE OF \$150.00. A HEARING IN THE
PROBATE COURT ON THE PETITION MAY BE REQUIRED.****I. ALL APPLICANTS/PETITIONERS MUST COMPLETE THIS SECTION.**

1. Applicant/Petitioner(s): Christine Nemeth

Address: 71 Cotton Trail, Mars Hill, NC 28754

Telephone (Work):

(Home):

(Cell): 843-290-6823

Email: christinenemeth88@yahoo.com

Relationship to Decedent: Ex-Wife, caretaker and sole heir

2. Decedent Information:

(including all known names): Full Legal Name: George Francis Niesar

Date of Birth: August 17, 1938

Date of Death: October 7, 2022

Age at Date of Death: 84

3. Venue for this proceeding is proper in this County because:

- ☒
- Decedent was domiciled in this County at date of death:
-
- Address: 1105 Bluffton Parkway, Bluffton, SC 29910 County: Beaufort State: South Carolina.
-
- ☐
- Decedent was
- not**
- domiciled in
- South Carolina**
- , but property of Decedent was located in this County
-
- at date of death at:
-
- Address: County: State: South Carolina
-
- ☐
- Decedent has a right to take legal action in this County because:

If the above address is the address of a nursing home, prison, or other residential facility, please give the last address
of the Decedent prior to entering a facility:

4(a). Names and addresses of beneficiaries (devisees) named in the Will.

FORM #300ES (09/2020)

Page 1 of 6

62-2-504, 62-3-102, 62-3-203, 62-3-301, 62-3-302, 62-3-303, 62-3-308, 62-3-311, 62-3-401, 62-3-402,
62-3-404, 62-3-409, 62-3-414, 62-3-601, 62-3-602, 62-3-704, 62-3-804, 44-22-100, 44-23-1120

Full Legal Name (including all known names)	Year of Birth	Full Address	Email Address	Relationship to Decedent
--	---------------	--------------	---------------	-----------------------------

Christine Nemeth	Over 18	71 Cotton Trail, Mars Hill, NC 28754	Christinenemeth88 @yahoo.com	Ex-Wife & Sole Heir

☐ See attached for additional devisees (check if applicable).

4(b). Names and addresses of intestate heirs who are not devisees (persons who inherit if Decedent left no Will).

Full Legal Name (including all known names)	Year of Birth	Full Address	Email Address	Relationship to Decedent
--	---------------	--------------	---------------	-----------------------------

Catherine Niesar Heft	Over 18	, 11866 Island Lakes Lane Boca Raton, FL 33498	heft@rocketmail.co m	Daughter
Eric Niesar	Over 18	655 Ane Check Colonars II 06790 Aspremont, France	niesar@yahoo.com	Son

☐ See attached for additional intestate heirs (check if applicable).

4(c). Did all of the above persons survive one hundred and twenty (120) hours since the death of Decedent?

☒ YES ☐ NO If no, please explain on page 4.

5. Did Decedent have any change of marital status or the birth or adoption of any children after execution of this Will, if one exists, or has any child of the Decedent been born since his/her death, or is any birth of a child of the Decedent anticipated? (This includes illegitimate children.)

☒ NO ☐ YES If yes, please explain, on page 4.

6. To the best of your knowledge, was the Decedent a patient in a non-private State of South Carolina mental health facility during his/her lifetime?

☒ NO ☐ YES If yes, please explain, on page 4.

7. Has a Guardian or Conservator ever been appointed by a Court for this person?

☒ NO ☐ YES If yes, please explain on page 4.

8. Has a Personal Representative of the Decedent been appointed prior to this date by a Court in this state or elsewhere?

☐ NO ☒ YES If yes, please state details, including name and address of such Personal Representative on page 4.

9. Have you received or are you aware of any Demands for Notice (FORM #111ES) of any probate or appointment proceeding concerning the Decedent that may have been filed in this state or elsewhere?

☒ NO ☐ YES If yes, please state details, including names and addresses on page 4.

10. Have more than ten (10) years passed since the Decedent's death?

☒ NO ☐ YES If yes, please state circumstances authorizing tardy probate on page 4.

11(a). Did the Decedent own probate real estate?

☒ NO ☐ YES If yes, an approximate value of (Note: A complete inventory of probate assets with fair market values is to be filed after Personal Representative is appointed.)

11(b). Did the Decedent own probate personal property?

☒ NO ☐ YES If yes, an approximate value of \$_____ (Note: A complete inventory of probate assets with fair market values is to be filed after Personal Representative is appointed.)

11(c). Are you seeking appointment as Personal Representative in order to pursue civil litigation on behalf of the Decedent's estate? Is there a civil litigation attorney?

☐ NO ☒ YES If yes, please provide the name of the civil litigation attorney: _____

11(d). At the time of Decedent's death, was he or she involved in any pending civil litigation? Is there a civil litigation attorney?

☒ NO ☐ YES If yes, please state the circumstances and name of attorney on page 4.

11(e). If you answered NO to questions 11(a) - 11(d) above, but are seeking the appointment of a Personal Representative, please explain why the appointment is requested on page 4.

12. Have you made a diligent search for a Will of the Decedent?

☒ YES
☐ NO If no, please explain on page 4.

II. IF A WILL EXISTS, PLEASE COMPLETE THIS SECTION.

1. Regarding the Decedent's Will:

- ☐ The original is attached.
- ☒ The original is in the Court's possession.
- ☐ An exemplified (authenticated) copy of a Will probated in another jurisdiction is attached.
- ☐ An exemplified (authenticated) copy of a Will not probated in another jurisdiction is attached.
- ☐ The original of the Will is lost, destroyed, or otherwise unavailable, however, a copy or a description of its contents is attached. (for formal proceeding, explain below or attach supplemental pleadings)

2. The execution date of the Will was: December 17, 2018
Codicil(s): _____

3. Is there a memorandum that disposes of tangible personal property pursuant to 62-2-512?

☒ NO ☐ YES If yes, attach hereto.

4. To the best of your knowledge, do you believe the Will listed above is the Decedent's validly executed last Will?

☒ YES ☐ NO If no, please explain on page 4.

5. To the best of your knowledge, is any witness to the will an "interested witness" (i.e., does the will make any devise to a witness, a witness's spouse, or a witness's issue)?

☒ NO ☐ YES If yes, please explain on page 4.

COMPLETE EXPLANATION(S) FOR QUESTIONS IN SECTIONS I and II HERE.

(If more space is required, use additional sheets.)

Christine was married to the decedent. They were divorced on July 20, 2007. The June 30, 1994 deed(s) to the 1105 Bluffton Road property was and is in both their names as joint tenants with right of survivorship (filed). Despite their divorce and Ms. Nemeth's remarriage, Ms. Nemeth lived with her new husband and the decedent, in their former marital home, as the Decedent's caretaker. The deed was never changed and in the decedent's will from 2018 he leaves all of his real property to Ms. Nemeth. The decedent's brother, Gerald V. Niesar filed to probate the estate without contacting Ms. Nemeth to inquire if the decedent had a will, case number 2023-ES-07-00417. Gerald v. Niesar claims he is owed \$24,000.00 for a loan to the Decedent. Gerald has sued Christine in federal court alleging diversity of citizenship and over \$75,000 in controversy in Gerald Viglione Niesar, individually and as Personal Representative of the Estate of George Francis Niesar v. Christine Nemeth 9:23-cv-04660-DCN, the Summons, Complaint, Second Amended Answer, Affirmative Defenses and Counterclaim are already filed.

III. IF APPLYING FOR INFORMAL OR FORMAL APPOINTMENT, PLEASE COMPLETE THE FOLLOWING.

1. If the Applicant/Petitioner is not the proposed Personal Representative(s), list name and address of the person you are proposing be appointed as the fiduciary:
- _____

2. Priority for appointment of the proposed Personal Representative (whether applicant or nominee) is:

- ☒ named as Primary Personal Representative in Will
☐ named as Alternate Personal Representative in Will
☐ nominee of Primary Personal Representative in Will
☐ nominee of Alternate Personal Representative in Will
☐ surviving spouse of Decedent who is devisee of Decedent or nominee of said spouse
☐ other devisee of Decedent (describe): _____ or nominee of said devisee
☐ surviving spouse of Decedent or nominee of said spouse
☐ other heir of Decedent (describe): _____ or nominee of said heir
☐ creditor (forty-five (45) days after death must have passed) or nominee of creditor; written statement of claim, FORM 371ES, is attached
☐ other (describe): _____

3. List below the name(s) of any other person(s), if any, having an equal or higher priority of appointment than the proposed Personal Representative:
- _____

IV. ALL APPLICANTS/PETITIONERS MUST COMPLETE VERIFICATION.

VERIFICATION

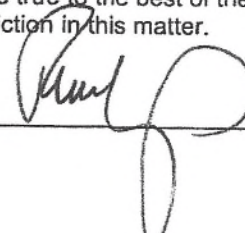
The undersigned, being sworn, states that the facts set forth in the foregoing statement are true to the best of the undersigned's knowledge, information and belief, and hereby submits to the Court's jurisdiction in this matter.

SWORN to before me this 17 day

of January 2024

Notary Public for South Carolina

Signature of
Applicant/Petitioner:



My Commission Expires: _____

SWORN to before me this _____ day
of _____, 20____

Signature of Co-
Applicant/Co-Petitioner: _____

Notary Public for South Carolina
My Commission Expires: _____

ORDER OF INFORMAL PROBATE

IT IS HEREBY ORDERED that the above application for probate of a Will executed _____ and

- ☐ Codicil executed _____ and
☐ Memorandum _____

be informally ☐ GRANTED ☐ DENIED.

Executed this _____ day of _____, 20____.

_____, Probate Court Judge

☐ For formal probate of Will, see separate order executed _____.

ORDER OF INFORMAL APPOINTMENT

IT IS HEREBY ORDERED that the above Application for Appointment be granted upon the filing of an appropriate bond, if applicable, and upon the signing of the Qualification and Statement of Acceptance of appointment.

Bond

- ☐ Fiduciary Bond in the amount of \$_____
☐ Bond not required for Personal Representative nominated by Will
☐ Bond not required as Personal Representative is sole heir or sole devisee
☐ Bond not required as Personal Representative is state agency, bank, or trust company
☐ Bond waivers filed
☐ See order dated _____
☐ Other: _____

Notice to Creditors

- ☐ Required
☒ Not Required

Executed this _____ day of _____, 20____.

_____, Probate Court Judge

☐ For formal appointment of Personal Representative, see separate order executed _____.

QUALIFICATION AND STATEMENT OF ACCEPTANCE

I accept this appointment and agree to perform the duties and discharge the trust of the office of Personal Representative of this estate. I further submit personally to the jurisdiction of the Court in any proceeding relating to the Estate.

Signature: *Christine Nemeth*
Print Name: Christine Nemeth
Address: 71 Cotton Trail
Mars Hill, NC 28754
Telephone (Work): _____
(Home): _____
(Cell): 843-290-6823
Email: Christinenemeth88@yahoo.com

Signature: _____
Print Name: _____
Address: _____
Telephone (Work): _____
(Home): _____
(Cell): _____
Email: _____

*Attorney: _____
Address: _____
Telephone: _____
Email: _____

*By completing this information, attorney is designated as attorney of record for assisting Personal Representative until proper withdrawal.

STATE OF SOUTH CAROLINA	)	
	)	IN THE COURT OF COMMON PLEAS
COUNTY OF BEAUFORT	)	FOURTEENTH JUDICIAL CIRCUIT

IN THE MATTER OF:	)	Case No. 2025-CP-07-00873
-------------------	---	---------------------------

GEORGE FRANCIS NIESAR	)	
(Decedent)	)	

GERALD VIGLIONE NIESAR,	)	
Individually and as Personal Representative of	)	
the Estate of George Francis Niesar,	)	
	)	
Plaintiff,	)	

**PLAINTIFF'S MOTION FOR
SUMMARY JUDGMENT**

vs.	)	
-----	---	--

CHRISTINE NEMETH,	)	
-------------------	---	--

Defendant.	)	
------------	---	--

Pursuant to Rule 56 of the South Carolina Rules of Civil Procedure, Plaintiff Gerald Viglione Niesar ("Plaintiff"), in his capacity as Personal Representative of the Estate of George Francis Niesar (the "Estate"), by and through his undersigned counsel, hereby submits this Motion for Summary Judgment. Plaintiff respectfully submits that summary judgment is warranted as a matter of law on his First Cause of Action (Conversion), and that he is entitled to an entry of a judgment in favor of the Estate in the amount of \$443,000.00 plus pre- and post-judgment interest. In support of this Motion, Plaintiff shows as follows:

Conversion

1. Decedent married Defendant on March 29, 1989. During their marriage, Decedent and Defendant jointly owned the property known as 1105 Bluffton Parkway, Bluffton, SC 29910 with Beaufort County Tax Map Parcel Numbers R600-029-000-0034-0000 and R600-029-000-011A-0000 (the "Property") in a joint tenancy with rights of survivorship.

2. Defendant filed for divorce on May 7, 2007, and the Final Order of Divorce was signed and filed by the court on July 18, 2007. The Final Order of Divorce does not reference the Property at all.

3. Decedent died on October 7, 2022. On November 3, 2022, Defendant or her representative filed Decedent's death certificate with the Beaufort County Register of Deeds, and Defendant wrongfully assumed sole ownership of the Property.

4. On November 4, 2022, Defendant sold the Property to the Beaufort County School District for \$886,000.00 (the "Sale"). Defendant is the only grantor present on the deed conveying the Property, and Defendant alone collected the full amount of the Sale's proceeds.

5. Defendant did not deliver a will of the Decedent to the judge of the probate court having jurisdiction to admit the same within thirty days of receiving notice of Decedent's death, as required by S.C. Code § 62-2-901.

6. In South Carolina, summary judgment is appropriate where there is no genuine issue of material fact and the moving party is entitled to judgment as a matter of law. *Shaw v. City of Charleston*, 351 S.C. 32, 567 S.E.2d 530 (2002). To establish a cause of action for conversion, "a plaintiff must prove (1) an interest by the plaintiff in the thing converted; (2) the defendant converted the property to his or her own use; and (3) the use was without the plaintiff's permission." *Builders Source Direct v. Cosco Logistics (Americas) Inc.*, 2008 WL 11349731, at *11 (D.S.C. 2008) (citing *Crane v. Citicorp Nat'l Servs., Inc.*, 313 S.C. 70, 437 S.E.2d 50 (1993), *superseded by statute on other grounds*)). There is no genuine issue of material fact with respect to any of the three elements of conversion, and Plaintiff is, therefore, entitled to judgment as a matter of law on his claim for conversion brought on behalf of the Estate.

7. The first element of conversion is met because, as a matter of law, the Estate owned a one-half interest in the Property and was, therefore, entitled to receive one half of the proceeds of the Sale. The joint tenancy with rights of survivorship in which Defendant and Decedent owned the Property was severed by operation of law upon their divorce in 2007. *See* S.C. Code Ann. §§ 27-7-40(a)(vii); 62-2-507(c)(2). Because of this severance, after Decedent's death, Defendant did not own the Property outright; instead, Defendant and Decedents' Estate each had an equal ownership percentage in the Property. Therefore, there is no dispute that such one-half share of the proceeds from the Sale legally and equitably belonged to the Estate. *See Moore v. Weinberg*, 383 S.C. 583, 589, 681 S.E.2d 875, 878 ("Money may be the subject of conversion when it is capable of being identified . . .").

8. The second element of conversion is also satisfied. The evidence in the record plainly shows—and Defendant does not and cannot dispute—that Defendant sold the Property to the Beaufort County School District for \$886,000, that Defendant is the only grantor present on the deed conveying the Property to the Beaufort County School District, and that she collected the full purchase price after the Sale and kept it for herself alone, without distributing the proceeds from the Sale equally between herself and the Estate.

9. With respect to the third element of conversion, there is no factual dispute that the Estate did not permit or authorize Defendant to keep the full proceeds from the Sale. It is uncontroverted that before Defendant sold the Property and appropriated all of the Sale proceeds for herself alone, she did not submit any will of Decedent to probate or petition for her appointment as Personal Representative of the Estate.

10. Therefore, the Court should enter summary judgment in favor of Plaintiff as to his First Cause of Action (Conversion), and the Court should order Defendant to pay damages equal

to \$443,000.00, which is half of the proceeds from the Sale, plus pre- and post-judgment interest.¹ *Robbins v. First Fed. Sav. Bank*, 294 S.C. 219, 225, 363 S.E.2d 418, 422 (Ct. App. 1987) (stating that “the measure of damages for money which has been converted is its amount with legal interest from the date of conversion”).

Executor de son Tort

11. Plaintiff is also entitled to summary judgment on his cause of action for liability as executor de son tort of Decedent’s Estate.

12. Under S.C. Code Ann. § 62-3-619, “[a]ny person who obtains, receives, or possesses property of whatever kind, belonging to the decedent, by means of fraud or without paying valuable consideration equivalent to the value of the property, shall be charged and chargeable as executor of his own wrong (executor de son tort) with respect to the goods and debts.” In such cases, “[t]he value of the property is charged to the executor de son tort,” and “the value of the property shall be deducted from any distribution or payment of any claim or commission to which the executor de son tort is entitled from the estate.” *Id.*

13. Defendant’s and Decedent’s joint tenancy with rights of survivorship in the Property severed by operation of law upon their divorce. Accordingly, when Decedent died, his one-half interest in the Property did not vest in Defendant but remained in his Estate.

¹ Plaintiff acknowledges that a conversion action “does not lie when alleging the exercise of dominion or control over real property.” *Hawkins v. City of Greenville*, 358 S.C. 280, 297, 594 S.E.2d 557, 566 (Ct. App. 2004). However, as made clear in Plaintiff’s Complaint, the property that is the subject of Plaintiff’s conversion claim is the *proceeds* from the Sale of the Property, not the Property itself. Plaintiff previously moved for summary judgment on his conversion claim in the United States District Court for the District of South Carolina. That court denied summary judgement on the basis that “a cause of action for conversion cannot be sustained when the thing converted is an interest in real property.” See Exhibit A. Plaintiff moved to reconsider this decision, arguing that conversion of the proceeds from a sale of real property is not the same thing as conversion of real property, but the federal court stayed the federal action (Case No. 9:23-cv-04660-DCN) before deciding the motion to reconsider. See Exhibit B.

14. Defendant obtained, received, and possesses the proceeds from the Sale of the Property, one-half of which belonged to the Estate.

15. Defendant did not pay any consideration to the Estate for the Estate's one half of the Property, Decedent's rights under the contract to sell the Property, or one half of the proceeds from the Sale of the Property.

16. As a result of Defendant's misconduct, the Property, Decedent's rights pursuant to the contract to sell the Property, and the proceeds from the Sale of the Property have been converted, wasted, or otherwise damaged through improper interference. Accordingly, Defendant is liable to Decedent's Estate as executor de son tort for one-half of the proceeds of the Sale.

17. Therefore, the Court should grant summary judgment on Plaintiff's claim for liability against Defendant as an executor de son tort of the Estate and should charge one half of the value of the proceeds of the Sale of the Property against Defendant and deduct that amount from any distribution or payment of any claim or commission to which Defendant is entitled to receive from the Estate.

Constructive Trust

18. The Court should also grant summary judgment on Plaintiff's claim for constructive trust. For the reasons described above, there is no genuine issue of material fact that Defendant has been unjustly enriched by her unlawful and bad faith retention of the full proceeds of the Property's Sale, when one half of those proceeds belong to the Estate. The proceeds of the Sale do not equitably belong to her, and she cannot in good conscience retain or withhold them from the Estate, or Plaintiff as Personal Representative. Therefore, Plaintiff is entitled to the imposition of a constructive trust over the portion of the portion of the proceeds from the

Property's Sale that rightfully belongs to Decedent's Estate that Defendant improperly retained for herself.

CONCLUSION

Based on the above and any forthcoming supporting memoranda Plaintiff may submit, Plaintiff respectfully requests that the Court grant Plaintiff's Motion for Summary Judgment.

NELSON MULLINS RILEY & SCARBOROUGH LLP

By: /s/ Robert H. Brunson

Robert H. Brunson (S.C. Bar No. 11987)
robert.brunson@nelsonmullins.com
John P. Bozeman (S.C. Bar No. 105262)
John.bozeman@nelsonmullins.com
151 Meeting Street / Sixth Floor
Post Office Box 1806 (29402-1806)
Charleston, SC 29401-2239
(843) 853-5200

*Attorneys for Plaintiff Gerald Viglione Niesar, individually and
as Personal Representative of the Estate of George Francis
Niesar*

Charleston, South Carolina
May 6, 2025

Exhibit A

Archived: Monday, July 15, 2024 12:55:05 PM
From: SCDEfilingstat@scd.uscourts.gov
Mail received time: Mon, 15 Jul 2024 16:47:51
Sent: Monday, July 15, 2024 12:47:53 PM
To: scd_ecf_nef@scd.uscourts.gov
Subject: Activity in Case 9:23-cv-04660-DCN Niesar v. Nemeth Order on Motion for Summary Judgment
Importance: Normal
Sensitivity: None

This is an automatic e-mail message generated by the CM/ECF system. Please DO NOT RESPOND to this e-mail because the mail box is unattended.

*****NOTE TO PUBLIC ACCESS USERS*** There is no charge for viewing opinions.**

U.S. District Court

District of South Carolina

Notice of Electronic Filing

The following transaction was entered on 7/15/2024 at 12:46 PM EDT and filed on 7/15/2024

Case Name: Niesar v. Nemeth
Case Number: [9:23-cv-04660-DCN](#)
Filer:
Document Number: [39](#)

Docket Text:

ORDER denying [18] Motion for Summary Judgment; denying [19] Motion for Summary Judgment; denying [23] Motion for More Definite Statement; and denying [24] Motion for Sanctions. Signed by the Honorable David C. Norton on July 15, 2024. (estr,)

9:23-cv-04660-DCN Notice has been electronically mailed to:

Charles Russell Keep, III hhlaw@hargray.com

Robert H Brunson robert.brunson@nelsonmullins.com, alfonso.orozco@nelsonmullins.com,
debbie.brown@nelsonmullins.com, elizabeth.todd@nelsonmullins.com, lauren.lynch@nelsonmullins.com

9:23-cv-04660-DCN Notice will not be electronically mailed to:

The following document(s) are associated with this transaction:

Document description:Main Document

Original filename:n/a

Electronic document Stamp:

[STAMP dcecfStamp_ID=1091130295 [Date=7/15/2024] [FileNumber=11943149-0] [2af33e50343e1db9688e79b02058fd6e13fe761e059a9e57f3f34f2868d9a5fe42]

ELECTRONICALLY FILED - 2025 May 05 1:35 PM - BEAUFORT - COMMON PLEAS - CASE#2025-0070700873

307b05cbcf56a6e9756a3d096cd1f5aaa13602d4b4831eebe0330cb9fe60a]]

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
BEAUFORT DIVISION**

Gerald Viglione Niesar, *as Personal Representative of the Estate of George Francis Niesar,*

Plaintiff,

VS.

Christine Nemeth.

Defendant.

No. 9:23-cv-04660-DCN

ORDER

This matter is before the court on defendant Christine Nemeth’s (“Nemeth”) motion for summary judgment, ECF No. 18; motion for a more definite statement, ECF No. 23; and motion for sanctions, ECF No. 24; and on plaintiff Gerald Viglione Niesar’s (“Gerald”) motion for summary judgment, ECF No. 19. For the reasons set forth below, the court denies all of the motions.

I. BACKGROUND

The procedural history of this case is complicated, as it is intertwined with a matter currently pending in the Beaufort County Probate Court (the “Probate Court”). The factual background, however, is largely undisputed by the parties. See ECF No. 36, Answer to 2d Amend. Compl. ¶ 2. The court will start by reciting both the procedural history and those facts which are not in dispute.¹

This case stems from the death of George Francis Niesar (“George”). See ECF No. 31, 2d Amend. Compl. George was Gerald’s brother and Nemeth’s ex-husband. See

¹ Except where otherwise stated, the factual background in this section comes from only those paragraphs in Gerald's second amended complaint that were admitted in Nemeth's answer to that pleading. See Answer to 2d Amend. Compl. ¶ 2.

id. ¶¶ 1, 9. George was also the father of two children from a prior marriage, though he and Nemeth never had children together. Id. ¶ 7.

George and Nemeth married on March 29, 1989. Id. ¶ 6. During their marriage, they jointly owned a property located at 1105 Bluffton Parkway in Bluffton, South Carolina (the “Property”) in a joint tenancy with rights of survivorship.² 2d Amend. Compl. ¶ 8. The couple separated in 1995 and officially divorced in 2007. Id. ¶ 9. Their divorce agreement did not reference the Property. Id. ¶ 10.

After their divorce, Nemeth moved to Florida. Id. ¶ 12. At some point, she later moved back to South Carolina and lived with George until his death, but it does not appear that the couple ever remarried. See id. ¶¶ 13, 21. In 2014, George and Nemeth granted an easement on the Property to the Beaufort County School District (the “District”). Id. ¶ 14. Then, in 2016, George, this time acting without Nemeth, granted another easement for drainage to Beaufort County. Id.

In January 2019, George and Nemeth agreed to sell the Property to the District. Id. ¶ 15. However, they did not finalize the sale at that time. Id. On or around October 5, 2022, George and Nemeth’s counsel informed the District that George had been hospitalized and that his outcome was uncertain. Id. ¶ 16. On October 7, 2022, Nemeth emailed the District a picture of a document, which indicated that Nemeth would have Power of Attorney over George’s affairs if he became incapacitated. Id. ¶ 18; see also ECF No. 20-15 (email between Nemeth’s counsel and the District’s counsel with photo of George’s “Springing Durable Power of Attorney” attached). Nemeth stated that

² The Property is identified by Beaufort County Tax Map Parcel Numbers R600-029-000-0034-0000 and R600-029-000-011A-0000. 2d Amend. Compl. ¶ 8.

George did not have the capacity to close the sale and that she would do so on his behalf through this Power of Attorney. 2d Amend. Compl. ¶ 18. Later that same day, George died at the hospital. Id. ¶ 17. Nevertheless, Nemeth went forward with selling the Property to the District after George's death.³ See 2d Amend. Compl. ¶¶ 20, 23.

At some point, Nemeth informed George's family about his death, but she did not immediately file a will in the Probate Court. Id. ¶ 24. Upon learning of both George's death and the fact that no will had been filed, Gerald, with the consent of George's children, filed a petition in the Probate Court to open a probate matter for George's Estate (the "Estate"). Id. ¶ 25. On May 25, 2023, the Probate Court appointed Gerald as the personal representative of the Estate in In re: George Francis Niesar, 2023-ES-07-00417 (Beaufort Cnty. Prob. Ct. filed April 5, 2023). Id.

Gerald filed this case in this court on September 15, 2023. ECF No. 1, Compl. In his original complaint, he alleged that a one-half interest in the Property passed to the Estate upon George's death and that Nemeth's sale of the Property, and retention of all

³ Gerald alleges that Nemeth signed an affidavit on October 12, 2022, five days after George's death, which indicated that George was still alive and that she therefore had authority to act on his behalf through the Power of Attorney. 2d Amend. Compl. ¶ 19. Nemeth denies this allegation because she "is unsure of when she signed the affidavit." Answer to 2d Amend. Compl. ¶ 4.

Gerald attached an email to his motion for summary judgment from Sarah Robertson ("Robertson"), who appears to be an attorney for the District, to Nemeth's counsel. ECF No. 20-15. In the email, Robertson requests that Nemeth's counsel have Nemeth "sign the [the Affidavit That Power of Attorney Is In Full Force and Effect] in the presence of two witnesses, one of whom may be the notary." ECF No. 20-15 at 66. Robertson sent this email on October 12, 2022, five days after George's death. See id. The affidavit itself is also attached to Gerald's motion. ECF No. 20-15 at 68. There is a place on the affidavit for someone to write the date next to Nemeth's signature, but it appears that Nemeth neglected to fill in the date. See id. The notary, however, did date the document on October 12, 2022. See id. In any event, the motions presently before the court do not require resolution of factual questions regarding when Nemeth—perhaps, with the assistance of her counsel—prepared, signed, or attested to the affidavit.

proceeds from that sale, was unlawful. Id. ¶¶ 28–53. He also alleged that, prior to his brother’s death, Gerald had loaned George \$24,000.00, which George never repaid, making Gerald a creditor of the Estate. Id. ¶ 63–64. Gerald therefore brought claims against Nemeth based on her sale of the Property, both on behalf of the Estate, in his capacity as personal representative, and in his individual capacity as one of the Estate’s creditors. Id. ¶¶ 28–69.

About a month later, on October 13, 2023, Nemeth’s counsel sent Gerald’s counsel a document purporting to be George’s last will and testament (the “Purported Will”). 2d Amend. Compl. ¶ 26. The Purported Will is dated December 17, 2018. Id. If valid, it devises George’s entire Estate to Nemeth, with Gerald as the successor beneficiary under the residuary clause—meaning, George’s children would not inherit anything under this Purported Will. Id. ¶ 27. Prior to Gerald’s counsel receiving the Purported Will from Nemeth’s counsel, Gerald was unaware of the Purported Will’s existence. Id. ¶ 26.

On October 24, 2023, Gerald amended his complaint in this case to include factual allegations about Nemeth producing the Purported Will. ECF No. 7, Amend. Compl. Nemeth then filed an answer to the amended complaint two days later, in which she included a counterclaim against Gerald for sanctions and attorney’s fees under the South Carolina Frivolous Civil Proceedings Sanctions Act (“FCPSA”), S.C. Code Ann. § 15-36-10, et seq. ECF No. 8, Answer to Amend. Compl. ¶ 26–27. She asserted that this case is frivolous because Gerald does not have standing to sue on behalf of the Estate and because the claim he brought against her in his individual capacity was for only

\$24,000.00, well short of the \$75,000.00 amount in controversy required to invoke this court's diversity jurisdiction. See ECF Nos. 8; 9, 2d Amend. Answer to Amend. Compl.⁴

On January 17, 2024, shortly after the parties adjusted their pleadings in this case, Nemeth filed a revised petition in the Probate Court, in which she now seeks formal appointment as personal representative and formal testacy of the Purported Will.⁵ 2d Amend. Compl. ¶ 28. On January 31, 2024, Gerald filed an answer in the Probate Court in which he opposes Nemeth's revised petition. Id. ¶ 29. Gerald also asserts a counterclaim against Nemeth in Probate Court for not filing the Purported Will with the Probate Court within thirty days of George's death, as is required by S.C. Code Ann. § 62-2-901. 2d Amend. Compl. ¶ 29.

On February 8, 2024, Nemeth filed her motion for summary judgment in this case. ECF No. 18. Shortly thereafter, on February 12, 2024, the Honorable Heather R. Galvin, Beaufort County Probate Judge, held a status conference with the parties and stayed proceedings in the probate matter until the case in this court is concluded. 2d Amend. Compl. ¶ 30. During the status conference, Judge Galvin specifically noted that Gerald is authorized to pursue this action on behalf of the Estate. Id.

Gerald then filed both his motion for summary judgment and his response in opposition to Nemeth's motion in this case on February 22, 2024. ECF Nos. 19; 20. Nemeth filed her response in opposition to Gerald's motion on March 13, 2024. ECF No.

⁴ Nemeth clarified the basis for her argument in an amended answer to the amended complaint, which she filed on November 1, 2023. For some reason, she filed this document twice as ECF No. 7 and ECF No. 8. However, these two documents appear to be identical.

⁵ Nemeth filed similar petitions in the Probate Court in November and December 2023. See ECF Nos. 20-11; 20-12. These filings were technically deficient, and she made her operative, revised petition after that. ECF Nos. 20-11; 20-12; 20-13.

21. On April 16, 2024, Nemeth filed both her motion for a more definite statement and her motion for sanctions. ECF No. 23; 24. Gerald then amended his complaint again on April 25, 2024. ECF No. 31, 2d Amend. Compl. In the second amended complaint, which is now the operative complaint, Gerald no longer pursues any claims against Nemeth in his individual capacity, but he continues to pursue the claims he brings on behalf of the Estate. See id.; ECF No. 25-2 (redlined 2d Amend. Compl.). Gerald then responded in opposition to Nemeth's motion for a more definite statement and motion for sanctions on May 6, 2024. ECF Nos. 34; 35. On May 7, 2024, Nemeth filed an answer to Gerald's second amended complaint, in which she maintains her counterclaim under the FCPSA. Answer to 2d Amend. Compl. ¶¶ 15–17. As such, all four motions are now ripe for the court's review.

II. DISCUSSION

The court will consider each of the four pending motions in the order in which they were filed, starting with Nemeth's motion for summary judgment.

A. Nemeth's Motion for Summary Judgment

Nemeth's first motion is unfocused, vague, inartful, and erroneous, and the court strains to comprehend it. In both the docket and the motion's caption, it is labeled as a motion for summary judgment, and its preamble indicates that it is brought according to Rule 56. ECF No. 18 at 1. Perplexingly, however, each of the six numbered paragraphs in the body of the motion inexplicably begins with a citation to some other procedural rule or statute, but none of these legal authorities govern motions for summary judgment. The first paragraph of Nemeth's motion begins with the words, "FRCP Rule 12(b)(1)," and then proceeds to a three-sentence argument. Id. ¶ 1. Paragraphs two through four

state “FRCP 12(b)(6)” before raising a two- or four-sentence argument. Id. ¶¶ 2–4.

Paragraph five states “FRCP 12(b)(8)” before raising a two-sentence argument. Id. ¶ 5.

Finally, paragraph six states “28 U.S.C. 1447(d)” before raising a one-sentence argument.

Id. ¶ 6.

In consequence, it is unclear whether Nemeth, in fact, brings a motion for summary judgment at all. In any event, the court infers from the curious citations in her elusive filing that Nemeth intended to make a motion for dismissal or remand rather than one for summary judgment.⁶ The court will therefore consider paragraph one as if it were a motion to dismiss under Federal Rule of Civil Procedure 12(b)(1), paragraphs two through five as a motion to dismiss under Federal Rule of Civil Procedure 12(b)(6),⁷ and paragraph six as if it were a motion to remand under 28 U.S.C. § 1447. Yet even this generous construction of Nemeth’s chaotic ramblings is not enough to save her woefully defective arguments.

⁶ In this court, motions must generally be accompanied by a supporting memorandum. See Local Civ. Rule 7.04 (D.S.C.). Citations to appropriate legal authority are also helpful. Perhaps the court’s confusion could have been alleviated if counsel had complied with this rule.

⁷ Paragraph five of Nemeth’s motion indicates that it is brought pursuant to “FRCP 12(b)(8).” ECF No. 18 ¶ 5. Throughout this motion and the others currently pending before the court, Nemeth appears to have confused the Federal Rules of Civil Procedure with the South Carolina Rules of Civil Procedure. Under South Carolina Rule of Civil Procedure 12(b)(8), a court may dismiss a case when “another action is pending between the same parties for the same claim.” S.C. R. Civ. P. 12(b)(8); see also Cricket Cove Ventures, LLC v. Gilland, 701 S.E.2d 39, 44–45 (S.C. Ct. App. 2010) (discussing the narrow application of S.C. R. Civ. P. 12(b)(8)). This provision does not exist under the Federal Rules of Civil Procedure, as Federal Rule of Civil Procedure 12(b) has only seven subparts. See Fed. R. Civ. P. 12(b). Consequently, the court construes paragraph five of Nemeth’s motion as if it were brought pursuant to Federal Rule of Civil Procedure 12(b)(6).

1. Subject Matter Jurisdiction

A motion to dismiss under Federal Rule of Civil Procedure 12(b)(1) represents a challenge to the court's subject matter jurisdiction. Arbaugh v. Y & H Corp., 546 U.S. 500, 507 (2006). Pursuant to Rule 12(h)(3), "[i]f the court determines at any time that it lacks subject-matter jurisdiction, the court must dismiss the action." Fed. R. Civ. P. 12(h)(3). Lack of subject matter jurisdiction may be raised at any time by a party or the court. See Arbaugh, 546 U.S. at 506–07. "When a Rule 12(b)(1) motion challenge is raised to the factual basis for subject matter jurisdiction, the burden of proving subject matter jurisdiction is on the plaintiff." Richmond, Fredericksburg & Potomac R.R. Co. v. United States, 945 F.2d 765, 768 (4th Cir. 1991).

In deciding such a motion, "the district court may regard the pleadings as mere evidence on the issue and may consider evidence outside the pleadings without converting the proceeding to one for summary judgment." In re KBR, Inc., Burn Pit Litig., 744 F.3d 326, 333 (4th Cir. 2014) (internal quotation marks omitted). When determining whether subject matter jurisdiction is present, the court applies the standard applicable to motions for summary judgment where the nonmoving party must set forth specific facts beyond the pleadings to show that a genuine issue of material fact exists. Richmond, 945 F.2d at 768 (citing Trentacosta v. Frontier Pac. Aircraft Indus., Inc., 813 F.2d 1553, 1559 (9th Cir. 1987)). "The moving party should prevail only if the material jurisdictional facts are not in dispute and the moving party is entitled to prevail as a matter of law." Id.

Under 28 U.S.C. § 1332(a), a federal district court has "original jurisdiction of all civil actions where the matter in controversy exceeds the sum or value of \$75,000,

exclusive of interest and costs, and is between . . . citizens of different States.” 28 U.S.C. § 1332(a). Nemeth argues that this court does not have jurisdiction over this case because the amended complaint stated that Gerald was personally owed \$24,000 from George’s Estate, and this is less than the \$75,000 amount in controversy required for the court to exercise diversity jurisdiction. ECF No. 18 ¶ 1 (citing 28 U.S.C. § 1332).

By virtue of the second amended complaint, Gerald is no longer pursuing his individual cause of action for recovery of the alleged \$24,000 debt in this court. See 2d Amend. Compl. Moreover, a careful reading of the second amended complaint (or the first amended complaint for that matter) indicates that the Estate is alleging that it is entitled to half of the proceeds from the sale of the Property. See 2d Amend. Compl. ¶¶ 34, 40, 43, 48, 55, 63. Nemeth allegedly sold the Property for \$886,000.00, id. ¶¶ 22, 35, 43, and Gerald therefore seeks \$443,000.00, plus prejudgment and post-judgment interest, ECF No. 20 at 12. Thus, the amount in controversy requirement is satisfied. See 2d Amend. Compl. ¶¶ 34, 40, 43, 48, 55, 63; 28 U.S.C. § 1332.

There is also complete diversity of citizenship among the parties of this case. Nemeth is a citizen of North Carolina, 2d Amend. Compl. ¶ 2; Answer to 2d Amend. Compl., and Gerald is considered a citizen of South Carolina because he brings this action on behalf of George’s Estate, see 2d Amend. Compl. ¶ 1 (alleging that George died a citizen of South Carolina); Answer to 2d Amend. Compl. ¶ 2 (admitting the allegations in paragraph 1 of the second amended complaint); 28 U.S.C. § 1332(c)(2) (“For the purposes of this section and section 1441 of this title . . . the legal representative of the estate of a decedent shall be deemed to be a citizen only of the same State as the

decedent.”). Thus, this court has diversity jurisdiction over this case, and the court denies Nemeth’s challenge to the court’s subject matter jurisdiction.⁸ See § 1331.

2. Failure to State a Claim

A Rule 12(b)(6) motion for failure to state a claim upon which relief can be granted “challenges the legal sufficiency of a complaint.” Francis v. Giacomelli, 588 F.3d 186, 192 (4th Cir. 2009) (citations omitted); see also Republican Party of N.C. v. Martin, 980 F.2d 943, 952 (4th Cir. 1992) (“A motion to dismiss under Rule 12(b)(6) . . . does not resolve contests surrounding the facts, the merits of a claim, or the applicability of defenses.”). To be legally sufficient, a pleading must contain a “short and plain statement of the claim showing that the pleader is entitled to relief.” Fed. R. Civ. P. 8(a)(2). A Rule 12(b)(6) motion should not be granted unless it appears certain that the plaintiff can prove no set of facts that would support his claim and would entitle him to relief. Mylan Lab’ys, Inc. v. Matkari, 7 F.3d 1130, 1134 (4th Cir. 1993).

When considering a Rule 12(b)(6) motion, the court should accept all well-pleaded allegations as true and should view the complaint in a light most favorable to the plaintiff. Ostrzenski v. Seigel, 177 F.3d 245, 251 (4th Cir. 1999); Mylan Lab’ys, 7 F.3d at 1134. “To survive a motion to dismiss, a complaint must contain sufficient factual matter, accepted as true, to ‘state a claim to relief that is plausible on its face.’” Ashcroft

⁸ Though Nemeth does not argue that this case is within the probate exception to the court’s diversity jurisdiction, Gerald asserts that this exception does not apply. ECF No. 20 at 9. The probate exception bars the exercise of federal jurisdiction over two types of claims: (1) those seeking to probate or annul a will, or to administer a decedent’s estate and (2) those seeking to dispose of property that is in the custody of the state probate courts. Marshall v. Marshall, 547 U.S. 293, 311–12 (2006). Neither party has asked this court to probate or annul the Purported Will or to administer George’s Estate, and the Property at issue in this case is not in the custody of the Probate Court. Thus, Gerald is correct that the probate exception does not apply.

v. Iqbal, 556 U.S. 662, 678 (2009) (quoting Bell Atl. Corp. v. Twombly, 550 U.S. 544, 570 (2007)). “A claim has facial plausibility when the plaintiff pleads factual content that allows the court to draw the reasonable inference that the defendant is liable for the misconduct alleged.” Id. “Although the evaluation is generally limited to a review of the allegations of the complaint itself, and documents attached to the complaint as exhibits, a court may properly take judicial notice of matters of public record without converting a motion to dismiss into a motion for summary judgment.” Megaro v. McCollum, 66 F.4th 151, 157 (4th Cir. 2023).

The court construes paragraphs two through five of Nemeth’s motion, as an argument that the claims against her should be dismissed pursuant to Rule 12(b)(6). See ECF No. 18 ¶¶ 2–5. The entirety of her second paragraph reads: “At the time of George F. Niesar’s death, the Plaintiff was not an heir of George Francis Niesar (Will, attachment A). This is a probate matter.” ECF No. 18 ¶ 2. Though there is not any additional argument or citations to legal authorities provided, the citation to Gerald’s Purported Will seems to indicate that Nemeth believes Gerald cannot bring this action because he is not named as a beneficiary in the Purported Will.⁹ Thus, Gerald construes this paragraph as an argument that he does not have standing to pursue this case. ECF No. 20 at 8. He argues that Nemeth is “plainly wrong” because the South Carolina Probate Code explicitly confers standing to personal representatives to pursue claims on behalf of an estate. Id.

⁹ As Gerald notes, the term “heir” is defined in the South Carolina Probate Code as only those “who are entitled under the statute of intestate succession to the property of a decedent.” S.C. Code Ann. § 62-1-201(20) (emphasis added).

Assuming that Nemeth is indeed trying to raise a standing argument, she is incorrect, and Gerald has standing, as personal representative, to pursue a claim on behalf of the Estate. If Nemeth doubts this conclusion, the court refers her to the plain language of the South Carolina Probate Code. See S.C. Code Ann. § 62-3-703(c) (“[A] personal representative of a decedent domiciled in this State at his death has the same standing to sue and be sued in the courts of this State and the courts of any other jurisdiction as his decedent had immediately prior to death.”); see also 2d Amend. Compl. ¶ 30 (“[The Probate Court] also confirmed that Gerald is authorized to pursue this action on behalf of the Estate in this Court.”); Answer to 2d Amend. Compl. ¶ 2 (admitting the allegations in paragraph 30 of the second amended complaint); Fed. R. Civ. P. 17(a)(1)(A)–(B) (stating that an executor or administrator may prosecute an action “in the name of the real party in interest”). Therefore, to the extent Nemeth is arguing that Gerald does not have standing to pursue a claim on behalf of the Estate, her motion is denied. Additionally, to the extent Nemeth is arguing that Gerald does not have standing to pursue a claim in his personal capacity, her motion is denied as moot because Gerald no longer pursues a claim in that capacity. See 2d Amend. Compl.

Next, in paragraphs three and four of her motion, Nemeth argues that she co-owned the Property with George as joint tenants with rights of survivorship and that such rights did not terminate upon their divorce. ECF No. 18 ¶¶ 3–4. She therefore asserts that Gerald is incorrect when he alleges that, “[a]fter George and [Nemeth] divorced their joint tenancy with right of survivorship in the property severed.” ECF No. 18 ¶ 4

(quoting Amend. Compl. ¶ 36).¹⁰ She argues that Gerald’s allegation that the joint tenancy severed is “nonsense, especially as George named [Nemeth] sole heir in his 2018 Last Will and Testament.” ECF No. 18 ¶ 4.

Once again, Nemeth makes her argument without citation to legal authority; once again, Nemeth is mistaken in her conclusion; and once again, Nemeth’s error could have been avoided had she taken the time to briefly review the plain language of the appropriate statutes before filing her motion. If she had done so, she would have discovered that, in South Carolina, a married couple’s joint tenancy is severed upon divorce unless a court orders otherwise. See S.C. Code Ann. §§ 27-7-40(a)(vii) (“Any joint tenancy in real estate held by a husband and wife with no other joint tenants is severed upon the filing of an order or decree dissolving their marriage and vests the interest in both the parties as tenants in common, unless an order or decree of a court of competent jurisdiction otherwise provides.”); 62-2-507(c)(2) (“Except as provided by the express terms of a governing instrument, a court order, or a contract relating to the division of the marital estate made between the divorced individuals before or after the marriage, divorce or annulment, the divorce or annulment of a marriage . . . severs the interests of the former spouse in property held by them at the time of the divorce or annulment as joint tenants with the right of survivorship so that the share of the decedent passes as the decedent’s property and the former spouse has no rights by survivorship. This provision applies to joint tenancies in real and personal property . . .”). Nemeth has

¹⁰ The language Nemeth quotes comes from paragraph thirty-six of Gerald’s first amended complaint. See ECF No. 18 ¶ 4 (quoting Amend. Compl. ¶ 36). The exact same language is found in paragraph thirty-three of the now-operative second amended complaint. See 2d Amend. Compl. ¶ 33.

provided no reason to suspect that her joint tenancy with survivorship rights was not severed upon her divorce and, in fact, concedes that the Divorce Decree between her and George did not mention the Property. See ECF No. 18 ¶¶ 3–4. As such, this portion of her motion is denied.

Finally, Nemeth argues that this case should be dismissed or remanded because the same action is already pending in the Probate Court. ECF No. 18 ¶ 5. The matter in Probate Court, however, does not bar this court from exercising jurisdiction. “Indeed, with regard to parallel state and federal proceedings, the Supreme Court has held, over and over . . . that in the usual case the federal court must hear the cases that fall within their jurisdiction.”¹¹ McLaughlin v. United Va. Bank, 955 F.2d 930, 934 (4th Cir. 1992). As such, the pendency of the action in Probate Court does not bar this court from asserting jurisdiction over this action, and this portion of Nemeth’s motion is denied.

3. Remand Pursuant to 28 U.S.C. § 1447(d)

Nemeth asserts, without any additional argument, that “[t]his case should be remanded to Beaufort County Probate Court pursuant to 28 U.S.C. § 1447(d) for lack of subject matter jurisdiction.” ECF No. 18 ¶ 6. This portion of her motion is denied for

¹¹ Of course, there are limited exceptions to this rule, such as abstention under the Colorado River doctrine, but this doctrine only applies in the most “extraordinary circumstances.” McLaughlin, 955 F.2d at 934 (citation and internal quotation marks omitted) (citing Colorado River Water Conservation Dist. v. United States, 424 U.S. 800, 818–18 (1976)). Several factors must be considered when determining whether a court should abstain under this doctrine, including: “1) the preference accorded to the first court assuming jurisdiction over a res; 2) the relative inconvenience of the state and federal forums; 3) the need to avoid piecemeal litigation; . . . 4) the relative order of the state and federal suits[, 5)] whether a federal question is presented in the case, and [6)] whether either the state or federal suit ‘was a contrived, defensive reaction’ to the other.” Id. at 934–35. Nemeth has offered no argument as to why the Colorado River abstention doctrine should apply in this case, and the Probate Court has currently stayed proceedings pending resolution of this action. 2d Amend. Compl. ¶ 30.

two reasons. First, for reasons previously articulated, this court has subject matter jurisdiction over this case. Second, § 1447(d) applies only to cases that were removed from state court. See § 1447(d) (“An order remanding a case to the State court from which it was removed is not reviewable on appeal” (emphasis added)).¹² By definition, it is not possible for a federal court to remand a case back to state court when the case was never in state court in the first place. See Remand, Black’s Law Dictionary (11th ed. 2019) (defining remand as “[t]he act or an instance of sending something (such as a case, claim, or person) back for further action” (emphasis added)); see also Pekin Ins. Co. v. C.R. Onsrud, Inc., 2020 WL 2334084, at *3 (W.D.N.C. May 11, 2020) (“[T]his case has never been in state court so there is no removal for the Court to review nor is there any state court to which the case could be ‘remanded’ or returned.”); Singletary v. Aiken Cnty. Code Enf’t Div., 2023 WL 1786264, at *5 (D.S.C. Jan. 5, 2023) (“The undersigned therefore recommends that Defendants’ Motion to Remand State Law Claims be dismissed without prejudice, as Singletary’s claims were never removed in the first instance” (emphasis and citation omitted)), report and recommendation adopted 2023 WL 1785751 (D.S.C. Feb. 6, 2023). Thus, this portion of Nemeth’s motion is denied.

In sum, the court denies Nemeth’s motion to dismiss or remand in its entirety.

¹² Beyond that, even if remand pursuant to § 1447 were appropriate in this case, Nemeth still would have failed to have identified the statute’s appropriate subsection, as subsection (d) governs appellate review of a district court’s decision to remand a case back to state court. § 1447(d); see also Things Remembered, Inc. v. Petrarca, 516 U.S. 124, 127–28 (1995).

B. Gerald's Motion for Summary Judgment

Gerald is seeking summary judgment on his first cause of action for conversion. ECF No. 20 at 12. To prevail in a conversion claim under South Carolina law, “a plaintiff must prove (1) an interest by the plaintiff in the thing converted; (2) the defendant converted the property to his or her own use; and (3) the use was without the plaintiff’s permission.” Builders Source Direct v. Cosco Logistics (Ams.) Inc., 2008 WL 11349731, at *11 (D.S.C. Mar. 25, 2008).

Gerald argues that the evidence in the record establishes each of these elements. As for an interest in the thing converted, Gerald argues that the Estate had an interest in the Property because the Estate owned a one-half interest in the Property by virtue of George’s tenancy in common after his divorce, and therefore the Estate has an interest in one-half of the proceeds of that sale. ECF No. 20 at 13. Gerald then asserts that the second element is satisfied because it is undisputed that Nemeth sold the Property to the District and did not distribute the proceeds to the Estate. Id. (citing ECF Nos. 20-5; 20-6). Finally, Gerald argues that it is uncontroverted that the Estate did not give Nemeth permission to sell the Property, meaning that the third conversion element is satisfied. Id. at 13–14. As such, Gerald argues that summary judgment should be granted on the conversion claim and that the court should order Nemeth to pay \$443,000.00—what he calculates to be half of the proceeds from the sale of the Property plus prejudgment and post-judgment interests—to the Estate. Id. at 14.

In response, Nemeth simply recycles the now-familiar positions she takes on the other motions pending before the court. She argues that summary judgment should not be granted because Gerald was not named as an “heir” in George’s will. ECF No. 21 at

2. Therefore, she says that he does not have standing to bring the claim and that this matter should be remanded to the Probate Court.¹³ ECF No. 21 at 2.

As previously explained, Gerald has standing to bring this claim on behalf of the Estate, and this case cannot be remanded to the Probate Court. Nevertheless, the court denies Gerald's motion for reasons unrelated to Nemeth's nonsensical and unhelpful response.

Under South Carolina law, a cause of action for conversion cannot be sustained when the thing converted is an interest in real property. See Equitable Tr. Co. of Columbia v. Columbia Nat'l Bank, 142 S.E. 811, 813–14 (S.C. 1928) (“The cause of action set up by the plaintiff is one in tort for damages for conversion, and such an action does not lie for an exercise of dominion or control over real property or the assumption of the right to dispose of the same, even though the exercise of such dominion or the assumption of such right is in denial of the rights of a true owner.”); Hawkins v. City of Greenville, 594 S.E.2d 557, 566 (S.C. Ct. App. 2004) (“It is well settled that a conversion action does not lie when alleging the exercise of dominion or control over real property.”); Rains v. Chase Bank USA, N.A., 2014 WL 12538163, at *4 (D.S.C. Mar. 21, 2014), aff'd sub nom. Wade v. Chase Bank, USA N.A., 583 F. App'x 291 (4th Cir. 2014). Thus, even if Gerald is correct that Nemeth acted unlawfully when she disposed of the Property without providing any of the proceeds to the Estate, conversion is not the

¹³ In support of this argument, Nemeth cites only two sources of legal authority. ECF No. 21 at 2. The first is Article III, Section 2, Clause 1 of the United States Constitution (the often-called “cases and controversies clause”). Id.; see U.S. Const. art. III, § 2, cl. 1. The second is the United States Supreme Court's decision in Allen v. Wright, 468 U.S. 737, 752 (1984)), which she cites for the proposition that “[f]ederal courts may exercise power only ‘in the last resort, and as a necessity[.]’” ECF No. 21 at 2.

proper cause of action for vindication of the Estate's rights.¹⁴ The court therefore denies Gerald's motion for summary judgment.

C. Nemeth's Motion for More Definite Statement

In her motion for a more definite statement, Nemeth challenges the sufficiency of Gerald's response to her Request to Admit Number One. ECF No. 23 at 1. In this Request, Nemeth asked, "The attached copy of the 2018 Will of George Niesar is a true copy of a real document?" ECF No. 23-1. Gerald responded,

Plaintiff lacks personal knowledge as to whether the attached purported copy of the 2018 Will of George Niesar . . . is a true copy of a real document, and, thus, the information known or readily obtainable by Plaintiff is insufficient to enable Plaintiff to admit or deny this Request after reasonable inquiry. Plaintiff further responds that Defendant had not submitted the Purported Will to probate following George Niesar's death on October 7, 2022, until over a year after George Niesar's death.

Id.

Nemeth notes that she submitted the Purported Will to the Probate Court on November 15, 2023, and asserts that Gerald, as the personal representative of the Estate, "should not therefore deny the existence and authenticity of the Will leaving everything to the Defendant." ECF No. 23 at 2. She argues that Gerald's response to her Request to Admit was "evasive" and "interposed solely for delay." ECF No. 23 at 1.

¹⁴ Even if Gerald's brief could be read as an argument that the thing converted was the proceeds from the sale of the Property, rather than the Property itself, see ECF No. 20 at 13–14, the second amended complaint clearly alleges that the item converted was the Property, see 2d Amend. Compl. ¶ 36 ("[Nemeth] exercised unauthorized control over the Property and converted the Property completely for her own use through the sale."). Moreover, while the court has not been able to locate any cases in which South Carolina courts have ruled on whether conversion is the proper cause of action when the thing converted was the proceeds from the sale of real property, at least one court in another jurisdiction has faced the issue and ruled that a conversion action cannot lie in such instances. See Marin v. Wells Fargo, N.A., 2021 WL 5049111, at *9–10 (D.S.D. Sept. 27, 2021).

In response to the motion, Gerald asserts that he has never been in possession of the Purported Will, that Nemeth did not produce the Purported Will for the Probate Court until over a year after George's death, and that the Probate Court has not ruled on whether the Purported Will is George's valid will. ECF No. 34 at 4. Therefore, Gerald argues that his response to the Request to Admit is sufficient because it specifically describes why he can neither admit nor deny, as required by Rule 36. Id.

Rule 36 states:

If a matter is not admitted, the answer must specifically deny it or state in detail why the answering party cannot truthfully admit or deny it. A denial must fairly respond to the substance of the matter; and when good faith requires that a party qualify an answer or deny only a part of the matter, the answer must specify the part admitted and qualify or deny the rest. The answering party may assert lack of knowledge or information as a reason for failing to admit or deny only if the party states that it has made reasonable inquiry and that the information it knows or can readily obtain is insufficient to enable it to admit or deny.

Fed. R. Civ. P. 36(a)(4).¹⁵

The court does not understand Nemeth's argument for this motion. First, Gerald, very clearly, states in his filings in the Probate Court that he does not have sufficient knowledge to say whether or not the Purported Will is valid. See ECF No. 20-14 at 4. Second, the court is not sure how his being personal representative of the Estate qualifies him to determine the validity of a will, about which he has no prior knowledge. Gerald's response to the Request to Admit is adequate under Rule 36 because it explains that he lacks sufficient information to determine whether the Purported Will is indeed George's

¹⁵ Nemeth bases her motion on the equivalent rule under the South Carolina Rules of Civil Procedure. See ECF No. 23 at 1 (citing S.C. R. Civ. P. 36 and 37). Nemeth is again reminded that this case is currently in federal court, meaning the Federal Rules of Civil Procedure generally apply. See Wright v. Cent. States, Se. & Sw. Areas, Health & Welfare Fund, 440 F. Supp. 1235, 1236 (D.S.C. 1977).

valid will. See ECF No. 23-1; Fed. R. Civ. P. 36(a)(4). As such, the court denies Nemeth's motion for a more definite statement.

D. Nemeth's Motion for Sanctions

Much like the other motions Nemeth brings before the court, the purported legal and factual justifications for Nemeth's motion for sanctions are nonsensical. As for the motion's legal footing, Nemeth indicates in the preamble that she is moving pursuant to Federal Rule of Civil Procedure 11, but she later indicates that the motion is brought pursuant to not just Rule 11 but also 28 U.S.C. § 1927, and South Carolina's FCPSA. ECF No. 24 at 1, 3. However, she does not provide any argument or reference to 28 U.S.C. § 1927 aside from this one lonely citation, and the only argument she makes pursuant to the FCPSA is based on a version of the statute that was repealed nearly twenty years ago.¹⁶ See ECF No. 24 at 3–4. Because Nemeth has completely abdicated her responsibility to make any argument based on either 28 U.S.C. § 1927 or the current version of the FCPSA, the court denies her motion to the extent it is based on either of

¹⁶ Nemeth bases her motion on the version of the FCPSA that she quotes from the South Carolina Court of Appeal's decision in Kilcawley v. Kilcawley, 440 S.E.2d 892, 893 (S.C. Ct. App. 1994). ECF No. 24 at 3. Yet the South Carolina General Assembly repealed that version of the FCPSA and replaced it with the current version of the statute in 2005. See Economic Development, Citizens, and Small Business Protection Act of 2005, H.B. 3008, 116th Sess. 2005 S.C. Act No. 27, § 5. Thus, Nemeth has provided no argument based on the FCPSA in its current, operative form. See ECF No. 24 at 3–4.

If counsel plans to reference statutory text in the future, the court recommends locating and quoting from the statute directly, rather than relying on a recitation of the statutory text found in a thirty-year-old case.

these two statutes.¹⁷ The court will therefore analyze Nemeth's motion exclusively to the extent it is brought under Federal Rule of Civil Procedure 11.¹⁸

¹⁷ Even if Nemeth's motion were properly supported by arguments based on either 28 U.S.C. § 1927 or the FCPSA, it would still be denied. Section 1927 provides:

Any attorney or other person admitted to conduct cases in any court of the United States or any Territory thereof who so multiplies the proceedings in any case unreasonably and vexatiously may be required by the court to satisfy personally the excess costs, expenses, and attorneys' fees reasonably incurred because of such conduct.

28 U.S.C. § 1927. The motion is denied to the extent it is brought pursuant to this section because there is no evidence that Gerald's counsel "multiplie[d] the proceedings in [this] case unreasonably [or] vexatiously." See id.

Likewise, even if Nemeth had managed to identify the operative version of the FCPSA, the court still would deny her motion. The current version of the FCPSA provides:

At the conclusion of a trial and after a verdict for or a verdict against damages has been rendered or a case has been dismissed by a directed verdict, summary judgment, or judgment notwithstanding the verdict, upon motion of the prevailing party, the court shall proceed to determine if the claim or defense was frivolous.

S.C. Code Ann. § 15-36-10(C)(1) (emphasis added). Thus, "[m]otions made pursuant to the FCPSA are post-trial motions," Holmes v. E. Cooper Cmty. Hosp., Inc., 758 S.E.2d 483, 495 (S.C. 2014), and assertions for FCPSA violations are unripe before the conclusion of the case, see State Farm Fire & Cas. Co. v. Lang, 2021 WL 3856187, at *6 (D.S.C. Aug. 27, 2021) (dismissing a FCPSA counterclaim without prejudice as unripe). Thus, to the extent Nemeth grounds her motion in the FCPSA, the court denies the motion because it is unripe at this stage in the proceedings. See S.C. Code Ann. § 15-36-10.

¹⁸ The only cases Nemeth cites in support of sanctions under Rule 11 are the South Carolina Court of Appeal's decision in Kilcawley, 440 S.E.2d at 893 n.2, and several cases that were decided by the United States Court of Appeals for the Sixth Circuit. See ECF No. 24 at 3–4. The language Nemeth quotes from Kilcawley clearly indicates that the court is discussing Rule 11 of the South Carolina Rules of Civil Procedure, not the Federal Rules of Civil Procedure. See ECF No. 24 at 4 ("We take this opportunity to remind the bar of the significance of an attorney's signature on a pleading or motion under Rule 11(a), SCRCP." (emphasis added) (quoting Kilcawley, 440 S.E.2d at 893 n.2)). Moreover, the cases decided by the Sixth Circuit, while persuasive, are not binding on this court. Consequently, Nemeth has not cited to a single case that is mandatory precedent on this court in support of her motion for sanctions.

Rule 11 requires that an attorney or unrepresented party certify in all pleadings, written motions, or other papers

that to the best of the person's knowledge, information, and belief, formed after an inquiry reasonable under the circumstances:

(1) it is not being presented for any improper purpose, such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation;

(2) the claims, defenses, and other legal contentions are warranted by existing law or by a nonfrivolous argument for extending, modifying, or reversing existing law or for establishing new law;

(3) the factual contentions have evidentiary support or, if specifically so identified, will likely have evidentiary support after a reasonable opportunity for further investigation or discovery; and

(4) the denials of factual contentions are warranted on the evidence or, if specifically so identified, are reasonably based on belief or a lack of information.

Fed. R. Civ. P. 11(b). The court is empowered to impose sanctions, either on its own initiative or on a party's motion, for violation of this rule. Fed. R. Civ. P. 11(c).

The factual basis of Nemeth's motion is also unclear. She begins the motion, in a section labeled "procedure," by repeating the various arguments she raised when discussing the three other motions currently pending before the court. See ECF No. 24 at

The court further notes that several of Nemeth's citations in her motion for sanctions are exceptionally confusing and difficult to follow. For instance, despite citing multiple cases from the Sixth Circuit, one of her citations to a decision of that court follows a completely different format from the others. See ECF No. 24 at 4. This citation does not mention the court that made the decision; whether the decision was published; or if it was published, where in the federal reporter the decision can be found. Nemeth's citation to Kilcawley is similarly bewildering. Her first citation to this case does not mention the court that made that decision, and her second does not follow any standard method of pinpointing the portion of the opinion to which she is alluding. See id. at 3–4. While the court is not typically a stickler for proper citations, the court could better follow Nemeth's argument if it were not simultaneously trying to discover the secret of Nemeth's cryptic references.

1–2. She, once again, asserts that this case should be dismissed or remanded back to state court because (1) the amount in controversy requirement to invoke this court’s diversity jurisdiction is not met because Gerald seeks recovery of \$24,000, (2) Gerald is not listed as an “heir” in George’s Purported Will, (3) the Property was deeded to George and Nemeth as joint tenants with survivorship rights, and (4) there is another action pending between these same parties in the Probate Court. Id. Then, in a section labeled “sanctions,” she asserts that Gerald’s counsel should “be ordered to pay all [her] attorney fees in defending this action in this Honorable Court.” Id. at 3. However, she does not include any specific accusations of wrongdoing against Gerald’s counsel.¹⁹ Instead, she simply “requests the court determine whether [Gerald’s] attorney conducted an adequate pre-filing investigation as to the plausibility of his allegations and the legal and factual merits of his claims and why this has not needlessly prolonged the proceedings.” Id. From this, the court infers that Nemeth believes sanctions are appropriate because Gerald’s claims are frivolous for the reasons listed in the first section of her motion.

As previously explained, the court has jurisdiction over this case, and Nemeth is simply incorrect when she argues that this case should be, or even can be, remanded to state court. Beyond that, neither the existence of the Purported Will nor the fact that she

¹⁹ The closest Nemeth comes to specifically alleging wrongdoing is when she asserts that Gerald’s counsel failed to ask her whether George had a valid will prior to filing the action in Probate Court. ECF No. 24 at 4. The court finds that this is not a basis for sanctions. Even if it were, this argument mentions only Gerald’s counsel’s investigation prior to filing an action in a different court.

Nemeth also fails to identify any specific factual misstatement in any of Gerald’s pleadings or court filings. Indeed, rather than denying the existence of George’s will, the second amended complaint merely alleges that Gerald initiated proceedings in the Probate Court upon finding that no will had yet been filed and that the 30-day deadline for doing so had expired, 2d Amend. Compl. ¶¶ 24–25, and Nemeth has admitted that this allegation is true, Answer to 2d Amend. Compl. ¶ 2.

and George once owned the Property as joint tenants with survivorship rights makes Gerald's claims frivolous. As such, Nemeth's motion for sanctions is denied.²⁰

III. CONCLUSION

For the foregoing reasons, the court **DENIES** Nemeth's motion for summary judgment, **DENIES** Gerald's motion for summary judgment, **DENIES** Nemeth's motion for a more definite statement, and **DENIES** Nemeth's motion for sanctions.

AND IT IS SO ORDERED.



DAVID C. NORTON
UNITED STATES DISTRICT JUDGE

July 15, 2024
Charleston, South Carolina

²⁰ The court reminds Nemeth's counsel of the possible consequences of filing a motion for sanctions pursuant to Federal Rule of Civil Procedure 11. Under this rule, the court has authority to award "the prevailing party the reasonable expenses, including attorney's fees, incurred for the motion." Fed. R. Civ. P. 11(c)(2) (emphasis added). In other words, there are circumstances in which a party who moves for sanctions pursuant to this rule and loses may have to pay the non-movant's expenses in defending the motion. See, e.g., Commonwealth Grp.-Winchester Partners, L.P. v. Winchester Warehousing, Inc., 2007 WL 4210455, at *4 (W.D. Va. Nov. 27, 2007).

What's more, Nemeth's counsel has himself made numerous errors in this case to include: violating this court's local civil rules, failing to provide a legal memorandum in support of a motion, supporting motions with legal arguments and reasoning that are scant or completely absent, improperly citing to the South Carolina Rules of Civil Procedure, citing to a non-existent Federal Rule of Civil Procedure, seeking to remand a case to state court that was never in state court in the first place, failing to read or comprehend the plain language of the appropriate governing statutes, and citing to a statute that was repealed in 2005. With blunders so obvious and so avoidable, counsel should be especially cautious when hurling stones lest his glass house come plummeting down.

Exhibit B

Archived: Friday, August 2, 2024 2:18:50 PM
From: SCDEfilingstat@scd.uscourts.gov
Mail received time: Thu, 1 Aug 2024 13:25:32
Sent: Thursday, August 1, 2024 9:25:34 AM
To: scd_ecf_nef@scd.uscourts.gov
Subject: Activity in Case 9:23-cv-04660-DCN Niesar v. Nemeth Motion for Reconsideration
Importance: Normal
Sensitivity: None

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\sb280\f0U.S. District Court

\sb280\f0District of South Carolina

Notice of Electronic Filing

\f0 The following transaction was entered by Brunson, Robert on 8/1/2024 at 9:24 AM EDT and filed on 8/1/2024

Case Name: Niesar v. Nemeth
Case Number: [9:23-cv-04660-DCN](#)
Filer: Gerald Viglione Niesar
Document Number: [40](#)

\sb280\f0Docket Text:

MOTION for Reconsideration re [39] Order on Motion for Summary Judgment,,,, Order on Motion for More Definite Statement,, Order on Motion for Sanctions, by Gerald Viglione Niesar. Response to Motion due by 8/15/2024. Add an additional 3 days only if served by mail or otherwise allowed under Fed. R. Civ. P. 6 or Fed. R. Crim. P. 45. (Attachments: # (1) Exhibit A - Signed Contract of Sale for Closing)No proposed order.(Brunson, Robert)

9:23-cv-04660-DCN Notice has been electronically mailed to:

Charles Russell Keep , III hhlaw@hargray.com

Robert H Brunson robert.brunson@nelsonmullins.com, alfonso.orozco@nelsonmullins.com, debbie.brown@nelsonmullins.com, elizabeth.todd@nelsonmullins.com, lauren.lynch@nelsonmullins.com

9:23-cv-04660-DCN Notice will not be electronically mailed to:

\f0The following document(s) are associated with this transaction:

\sb280\f0**Document description:**Main Document

Original filename:n/a

Electronic document Stamp:

[STAMP dcecfStamp_ID=1091130295 [Date=8/1/2024] [FileNumber=11972471-0]
][aa5cc87b29627c3320a89c00dc0b9819f284c5c14e907d9fc30c0ea36a2640ffc0f
60cada58180dea17c1ff9e014d95c6e01ba43a51dc27d327e20d203c402e8]]

Document description:Exhibit A - Signed Contract of Sale for Closing

Original filename:n/a

Electronic document Stamp:

[STAMP dcecfStamp_ID=1091130295 [Date=8/1/2024] [FileNumber=11972471-1]
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4f88a6b63fd0eca6f4313ae6dffa5268d1d2d6e1da17a57666986367d17ff]]

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
BEAUFORT DIVISION**

Gerald Viglione Niesar, *as Personal*) No. 9:23-cv-04660-DCN
Representative of the Estate of George)
Francis Niesar,)
))
Plaintiff,) **PLAINTIFF’S MOTIO**
vs.) **OR AMEND C**
) **RECONSIDER**
Christine Nemeth,)
))
Defendant.)
))
)

PLAINTIFF'S MOTION TO ALTER
OR AMEND OR FOR
RECONSIDERATION

INTRODUCTION

Plaintiff Gerald Viglione Niesar, as Personal Representative of the Estate of George Francis Niesar (“the Estate” or “Plaintiff”), hereby moves for the Court to reconsider and alter or amend its Order dated July 15, 2024 (the “Order”), pursuant to FED. R. CIV. P. 54(b). In the Order, the Court denied Plaintiff’s Motion for Summary Judgment (“the Motion”) because it viewed Plaintiff’s conversion cause of action as an improper claim for conversion of real property. The Court should reconsider and alter or amend the Order for two reasons.

First, the Court apparently misunderstood or overlooked Plaintiff's stated position that he is seeking money damages the Estate incurred when Defendant Christine Nemeth ("Nemeth") absconded with all of the proceeds from the sale of the property located at 1105 Bluffton Parkway, Bluffton, SC 29910 ("the Property"), and he does not seek damages arising from the sale of the Property itself. In fact, George Francis Neisar ("the Decedent") signed the contract of sale before he died, and now the Estate is only seeking its one-half share of the money Nemeth received from that transaction. Further, Plaintiff repeatedly alleges that the proceeds of the sale were converted,

and that is the gravamen of the claim. At worst, the allegation in the Complaint that Nemeth converted the Property should be viewed as merely pleading in the alternative, and it should be disregarded on that basis. And last, Nemeth's failure to raise this argument at all and the Court's decision not to give Plaintiff notice and an opportunity to be heard precluded Plaintiff from having a fair opportunity to address this basis for denial of the Motion.

Second, the Court committed clear error in ruling that a claim for the proceeds from a sale of real property is an improper claim for conversion of real property. Failing to analyze how the South Carolina Supreme Court would decide this unresolved question of state law, the Court instead relied upon one wrongly decided case from another jurisdiction¹ which is not consistent with South Carolina law which supports the opposite conclusion. The Court should have considered these factors, and if it had done so, the Court would have granted the Motion for Summary Judgment.

LEGAL STANDARD

Pursuant to Rule 54(b), any order that "adjudicates fewer than all the claims or the rights and liabilities of fewer than all the parties does not end the action as to any of the claims or parties and may be revised at any time before the entry of a judgment adjudicating all the claims and all the parties' rights and liabilities." FED. R. CIV. P. 54(b). An interlocutory order can be "reviewed by the district court, on motion or sua sponte, at any time prior to the entry of a final judgment." *Fayetteville Investors v. Commercial Builders, Inc.*, 936 F.2d 1462, 1472 (4th Cir. 1991). "[R]eview of an interlocutory order under Rule 54 is not subject to the restrictive standards of motions for reconsideration of final judgments under Rule 60," and it is "within the plenary power of the Court that rendered [it] to afford such relief ... as justice requires." *Id.* at 1472–73. An order

¹ See *Marin v. Wells Fargo, N.A.*, 2021 WL 5049111, at *9–10 (D.S.D. Sept. 27, 2021).

may be amended under Rule 54(b) based upon (1) a subsequent trial producing substantially different evidence; (2) a change in applicable law; or (3) clear error causing manifest injustice. *U.S. Tobacco Cooperative Inc. v. Big South Wholesale of Virginia, LLC*, 899 F.3d 236, 257 (4th Cir. 2018). Plaintiff requests amendment of the Order based upon clear error causing manifest injustice.

ARGUMENT

I. Plaintiff adequately pleaded conversion of the proceeds in the Second Amended Complaint and Motion for Summary Judgment

In seeking summary judgment and pleading the claim for conversion, Plaintiff alleged that the converted property at issue in Plaintiff's conversion cause of action is the proceeds of the sale, and not the real property itself. Accordingly, the Court erroneously characterized Plaintiff's conversion action as one for conversion of real property.

Both the Second Amended Complaint and the Motion for Summary Judgment allege that Plaintiff seeks a recovery for conversion of the proceeds of sale, not conversion of the Property itself. The Court based its ruling on one allegation in the Complaint – paragraph 36 – in which Plaintiff alleged that “Defendant exercised unauthorized control over the Property and converted the Property completely for her own use through this sale.” (See Order, ECF No. 39, p. 18 n. 14). But that paragraph, which admittedly should not have referenced the defined term “the Property,” does not stand alone. In numerous paragraphs, the Complaint unambiguously alleges that the conversion claim relates to Nemeth's wrongful retention of the sales proceeds. Indeed, in the very next paragraph (37), Plaintiff alleges that “Defendant did not distribute the proceeds . . . but rather wrongfully collected the full sales price for herself alone.” (Second Am. Complaint, ECF No. 31, ¶ 37). The Second Amended Complaint also pleads that Plaintiff demands “that Defendant return the portion of the *proceeds* from the Property's sale that rightfully belong to George's Estate . . .”

Id. at ¶ 37, 40 (emphasis added). The only remedy Plaintiff seeks in the Complaint is money damages consisting of half of the sales proceeds that Nemeth retains in her possession.

Further, Plaintiff's Motion for Summary Judgment also argued that the converted property is the proceeds. (See Pl. [']s Mem. in Supp. of Pl. [']s Cross-Mot. for Summ. J., ECF No. 20, p. 13-14). The Motion clarifies that Plaintiff is seeking "one-half of the proceeds from the sale of the Property." *Id.* at 13. In proving each of the three elements of the conversion claim, Plaintiff focused on the proceeds and argued that "there is no genuine issue of material fact that Nemeth converted half of the proceeds from the sale of the Property." *Id.*

Last, even if the Court maintains that the pleaded conversion claim, at least in part was for real property, it should construe the complaint as pleading, in the alternative, a conversion claim only for proceeds. Federal Rule of Civil Procedure 8(d) provides that, "A party may set out 2 or more statements of a claim or defense alternatively or hypothetically, either in a single count or defense or in separate ones. If a party makes an alternative statement, the pleading is sufficient if any one of them is sufficient." In *Gleaton v. Monumental Life Ins. Co.*, the court interpreted this Rule to mean that a party may set out two or more statements of a claim or defense alternatively. *Gleaton v. Monumental Life Ins. Co.*, 719 F.Supp.2d 623, 630 (D.S.C. 2010). "Plaintiffs are entitled to state as many claims as they have, regardless of inconsistencies, and may plead in the alternative." *Lann v. Hill*, 436 F. Supp. 463, 465 (W.D. Okla. 1977). Accordingly, if the Court is convinced that it must interpret paragraph 36 as alleging conversion of real property, rather than denying summary judgment altogether on the conversion claim, the Court should deny summary judgment only as to the allegations in paragraph 36, but it should grant summary judgment on the claim repeatedly asserted in the pleadings and the Motion for Summary Judgment that Nemeth converted the proceeds from the property sale.

II. The Court erroneously ruled that conversion of the proceeds from a sale of real property is the same thing as conversion of real property.

In reaching its conclusion, the Court noted that the courts of South Carolina have not addressed whether proceeds from a prior sale of real property constitute personal property that may be subject to a claim for conversion, but the Court failed to consider other, related South Carolina state court cases, as well as decisions from Michigan, which are directly on point, and which indicate that South Carolina would allow such a claim. It was clear error for the Court to forego an analysis of how the South Carolina Supreme Court would rule on this question. See *Wellin v. Wellin*, 135 F. Supp. 3d 502, 511 (D.S.C. 2015) (discussing the process for a federal court to decide an unresolved issue of state law).

Under South Carolina law, an interest in real property becomes an interest only in personal property when the owner executes a contract to sell the property. “The theory of equitable conversion provides that under an executory contract for the sale of real estate, the equitable estate passes to the purchaser and the bare legal title for security purposes remains in the vendor.” *Brooks v. Council of Co-Owners of Stones Throw Horizontal Prop. Regime I*, 315 S.C. 474, 476, 445 S.E.2d 630, 632 (1994). Accordingly, upon entering a contract to sell real property, the seller becomes the owner of the purchase price, and the buyer is deemed to be the equitable owner of the real estate. See *In re Restivo Auto Body, Inc.*, 772 F.3d 168, 177 (4th Cir. 2014) (“[U]pon contracting to buy land, ‘in equity the vendee becomes the owner of the land, the vendor of the purchase money.’”) (citing *Himmighoefer v. Medallion Indus., Inc.*, 487 A.2d 282, 286 (Md. 1985)); *Meltzer v. Wendell-West*, 497 P.2d 1348, 1351 (Wash. 1972) (“An equitable conversion, therefore, takes place when a contract for the sale of real property becomes binding upon the parties. Thenceforth, the purchaser of the land is deemed the equitable owner thereof, and the seller is considered the owner of the purchase price.”). The concept “emanates from the maxim that

‘equity treats that as *being* done which *should* be done.’” *In re Restivo*, 772 F.3d at 177 (citing *Noor v. Centreville Bank*, 996 A.2d 928, 932 (Md. 2010)).

Although the execution of the sales contract is not specifically pleaded in the Second Amended Complaint or the Motion for Summary Judgment, upon information and belief, there is no factual dispute about this. Nemeth and Decedent both executed a contract to sell the Property to the Beaufort County School District on September 31, 2022. (Exhibit A).² Thus, on September 31, 2022, when Decedent and Nemeth entered into the contract to sell the property at issue to the Beaufort County School District, each became the owner of their right to receive their portion of the agreed purchase price, and neither remained an equitable owner of the real property. Because the Decedent’s only interest was in the sales proceeds when he died, and the proceeds of sale constituted personal, not real property, Nemeth’s retention of Decedent’s share of those proceeds constituted a conversion of personal property.

Moreover, because Nemeth completed the sale of the Property immediately after the Decedent died, an “actual completed transaction occurred.” See *Ex Parte Lowrance*, 130 S.E. 343, 345 (S.C. 1925). In cases where the real property has been sold and converted into personal property, “[i]t is not necessary to invoke the doctrine of equitable conversion to construe into a conversion a transaction which the parties themselves have made a *fait accompli* as such.” *Id.* (emphasis added). In *Ex Parte Lowrance* and *Board of Directors of Theological Seminary v. Lowrance*, a creditor brought an action seeking to recover judgment against a defendant who fraudulently received real estate from her husband. *Bd. of Dir. of Theological Seminary v.*

² The sales contract was not included in the original motion for summary judgment or the briefing relating to it because the contract had not been included in the FOIA response from the Beaufort County School District and because there was no dispute that the property was sold pursuant to a previously entered sales contract. The Second Amended Complaint also does not allege that the parties entered into a sales contract on this date, but it does allege that the “[t]he closing for the Property was set for October 31, 2022, but was then pushed back to a later date.” Second Amended Complaint, ¶ 20.

Lowrance, 119 S.E. 383, 384 (S.C. 1923). Through a series of transactions, the defendant’s insolvent husband conveyed land to her to keep the property away from creditors. *Id.* at 384-386. The defendant then sold the property and retained the proceeds, which were \$5,900 in cash and various notes and mortgages totaling \$35,000. *Id.* at 386. To protect the proceeds, the defendant claimed that the real estate had not been converted into personalty during the sale—meaning the homestead exemption would be allowed. *See Ex Parte Lowrance*, 130 S.E. at 344. The court rejected defendant’s argument and held that the situation involved “an actual completed transaction, as complete a transmutation of real estate into personal property as could possibly be conceived.” *Id.* at 345. Similarly, here, the sale of the real estate was a *fait accompli* as of the date Nemeth closed on the sale of the property, which occurred before the Estate was opened and this lawsuit was initiated, so the property in dispute may only be viewed as personal property and subject to a claim for conversion.

Last, not only does related precedent in South Carolina support Plaintiff’s position, but the courts of Michigan have examined this exact question and concluded that real property sales proceeds constitute personal property. *See Alisa A. Peskin-Shepherd, PLLC v. Blume*, 974 N.W.2d 835, 836 (Mich. 2022) (“It is true that proceeds of a real-estate sale are personal property and thus may be subject to conversion.”); *Stewart v. Young*, 226 N.W. 222, 224 (Mich. 1929) (holding that when real estate is sold without permission of all parties involved, “such proceeds are not real estate, but personal property”).

Because other South Carolina precedent establishes that a real property interest becomes a personal property interest when a sales contract is executed, and the sales contract here was executed on September 31, 2022, only a personal property interest remained when the Decedent

died on October 7, 2022. So, when Nemeth kept all of the sales proceeds and left town, she converted personal property to her own use, and that conduct renders her liable for conversion.

CONCLUSION

For the foregoing reasons, Plaintiff respectfully requests that the Court vacate, alter, or amend its Order dated July 15, 2024, and grant summary judgment in favor of Plaintiff on the cause of action for conversion of the sales proceeds.

Respectfully submitted,

NELSON MULLINS RILEY & SCARBOROUGH LLP

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(843) 853-5200

*Attorneys for Plaintiff Gerald Viglione Niesar, individually and
as Personal Representative of the Estate of George Francis
Niesar*

Charleston, South Carolina
August 1, 2024

EXHIBIT A

This document was prepared by
Burr & Forman LLP (SFR)
4 Clarks Summit Drive, Suite 200
Bluffton, SC 29910
(843) 815-2171

CONTRACT OF SALE

THIS CONTRACT OF SALE ("Contract") is made effective the latter date of execution below (the "Effective Date") by and between **Beaufort County School District**, with an address of P.O. Drawer 309, Beaufort, SC 29901 ("Purchaser") and **George F. Niesar and Christine Niesar**, whose address is 105 Bluffton Parkway, Bluffton, SC 29910 ("Seller").

1. **PURCHASE AND SALE OF PROPERTY.** In consideration of the mutual promises contained in this Contract, Purchaser agrees to purchase and Seller agrees to sell, upon all the terms and conditions hereafter set forth, the lots or parcels of land, with all improvements thereon, and any interests appurtenant thereto, situated in Beaufort County, South Carolina and being described as follows 1105 Bluffton Parkway, Bluffton, SC 29910 with Beaufort County Tax Map Parcel Numbers: R600-029-000-0034-0000 and R600-029-000-011A-0000 (the "Property").

2. **PURCHASE PRICE.** The total Purchase Price for the Property is EIGHT HUNDRED EIGHTY-SIX THOUSAND AND NO/100 DOLLARS (\$886,000.00) ("Purchase Price") to be paid by Purchaser as follows:

(a) \$86,000.00 earnest money deposit, to be paid to and held by Escrow Agent hereinafter named within three (3) business days of the Effective Date; and

(b) \$800,000.00 in cash, due and payable by wire transfer at Closing (as hereafter defined).

3. **FURNISHINGS, SYSTEMS.** That which is to be conveyed to Purchaser pursuant to this Contract includes all heating and air conditioning systems, all fixtures attached to the Property, all plumbing and other equipment, and shall additionally include without limitation the following:

4. **CONDITION OF PROPERTY.** Purchaser has fully examined and inspected the Property, including any personal property described in Paragraph 4 above, and agrees to purchase them "as is." Seller makes no warranty of the condition of such Property; however, all appliances, and heating and air conditioning, electric and plumbing systems shall be in good working order at Closing.

5. **CONVEYANCE OF PROPERTY.** At Closing, Seller shall convey marketable title to the Property to Purchaser in fee simple by general warranty deed, free from encumbrances, except such as are herein agreed to be assumed by Purchaser. If an owner's title commitment can be issued by an ALTA title insurance company, without any unusual or extraordinary exceptions, this shall constitute evidence of marketable title. As a condition to Purchaser completing the Closing, by Closing, Seller shall remove all personal property, waste, and debris from the Property. Seller shall retain a lawyer licensed in South Carolina to represent Seller in the transaction and to prepare

documents required on Seller's behalf including, without limitation, the deed, FIRPTA affidavit, SC I-295, and seller's title affidavit.

6. DATE AND PLACE OF CLOSING. The closing of this Contract shall take place on or before 005 31 / 22 2022 (the "Closing" or "Closing Date") at the office of Purchaser's attorney or other offices stipulated by Purchaser. Unless otherwise provided herein, Seller shall deliver possession of the Property to Purchaser at Closing.
7. RISK OF LOSS AND DAMAGE. The risk of loss or damage to the Property by fire or other casualty until Closing is the responsibility of Seller. In the case of loss or damage, Seller has the option to restore the Property within a reasonable time to substantially its undamaged condition or to terminate this Contract. In the event Seller elects to terminate this Contract, there shall be no further obligation of Seller to Purchaser and Escrow Agent shall return the earnest money to Purchaser.
8. PRORATIONS. All Beaufort County taxes, applicable water and sewer and other utility charges, maintenance assessments, regime fees and other applicable taxes and charges shall be prorated as of the date of Closing. Any outstanding special regime assessments shall be Seller's responsibility.
9. CLOSING EXPENSES. Seller shall be responsible for paying the Deed Recording Fee as required by Section 12-24 of the Code of Laws of South Carolina 1976, as amended (formerly referred to as documentary stamps) as well as for preparation of the deed. Purchaser shall be responsible for all financing costs, legal fees in connection with the title examination, title insurance costs, any other fees for recording the deed, any loan documentation and for any Town/County transfer fees, if applicable. As to any other expenses associated with Closing, Seller and Purchaser will pay such closing expenses customarily paid by sellers and purchasers in Beaufort County, South Carolina.
10. NO BROKERAGE FEES. Seller and Purchaser acknowledge and represent that they are dealing directly with each other with regard to this transaction and that there is no real estate broker involved or any real estate brokerage fee due. Purchaser holds Seller harmless from any claims for commission from any real estate broker with whom Purchaser may have dealt.
11. DEFAULT. Upon the failure of Purchaser to comply with the terms hereof within the stipulated time, and after receipt of notice of said default with a ten (10) day right to cure, it is understood and agreed by and between the parties hereto that Seller may: (a) at its option because of the difficulty in ascertaining actual resulting damages, retain the earnest money deposit as liquidated and agreed damages; (b) enforce the performance of this Contract by specific performance; or (c) sue for damages. Upon the failure of Seller to comply with the terms hereof within the stipulated time and after receipt of notice of said default with a ten (10) day right to cure, it is understood and agreed by and between the parties hereto that Purchaser may cancel the Contract and obtain refund of the earnest money deposit and/or proceed with all other rights and remedies at law or in equity against Seller.
12. ESCROW AGENT. Escrow Agent hereinabove referred to shall be Burr & Forman LLP, 4 Clarks Summit Drive, Suite 200, Bluffton, SC 29910, (843) 815- 2171, Attn: Sarah Robertson.

Escrow Agent shall not be charged with any knowledge until such facts are communicated to Escrow Agent in writing. Escrow Agent shall not be required to institute or maintain any litigation unless indemnified to its satisfaction for its legal fees, costs, disbursements and all other expenses and liabilities to which it may, in its judgment, be subjected in connection with this action. Seller and Purchaser shall at all times indemnify Escrow Agent against all actions, proceedings, claims or demands arising out of this transaction. Upon the failure of Purchaser to comply with the requirements as set forth herein and pursuant to the above referenced Paragraph 14, Escrow Agent shall be empowered to dispose of the earnest money deposit as provided for in said paragraph without incurring any liability. In the event of a dispute by and between Seller and Purchaser which cannot be resolved, Escrow Agent shall have the option of depositing the earnest money deposit into the Office of the Clerk of Court for Beaufort County, South Carolina pending resolution of the disposition of said funds and upon depositing said funds, Escrow Agent shall bear no further responsibility.

13. MISCELLANEOUS. If this offer is rejected by Seller, the earnest money deposit shall be returned in full to Purchaser. The invalidity or unenforceability of any provision of this Contract shall not affect the other provisions hereof and this Contract shall be construed in all respects as if such invalid and unenforceable provision were omitted. For the convenience of the parties hereto, duplicate originals of this Contract may be executed and each such original shall be deemed to be an original instrument. This Contract shall be governed and construed in accordance with the laws of the State of South Carolina. Titles of the paragraphs and subparagraphs included herein have been inserted as a matter of convenience for reference only and shall not affect the meaning or construction of any of the terms or provisions hereof. This Contract and all documents and instruments incorporated herein by specific reference are intended by the parties hereto to be the final and entire expression of their agreement and constitute a complete and exclusive statement of the terms hereof notwithstanding any representations or statements to the contrary heretofore made. In the event of litigation relating to enforcement of rights under this Contract, the prevailing party shall be entitled to recover all litigation expenses, including legal fees and court costs, from the non-prevailing party. This Contract may not be amended, modified, altered or changed in any respect whatsoever, except by a further written agreement duly executed by the parties hereto. No failure of a party to exercise any power or right granted hereunder or to insist upon strict compliance with any obligation specified herein, and not practice at variance with the terms hereof, shall constitute a waiver of said power or right unless expressly authored in writing by the affected party. Seller acknowledges that the closing agent for this transaction is required by the provisions of the Internal Revenue Code of 1986, as amended, to complete and file a Form 1099B relating to the sale and, if Seller is a non-resident of South Carolina, a withholding return will be filed with the South Carolina Department of Revenue. Seller will cooperate and provide all information required to the closing agent. This Contract shall be binding upon and inure to the benefit of the parties hereto and their respective heirs, devisees, personal representatives, successors and assigns.

Purchaser's authorized agent has executed this Contract as of the date below.

PURCHASER:

Beaufort County School District

By:

Name: Frank J. Rodriguez

Title: Superintendent

Seller has executed this Contract as of the date below.

SELLER:

George F. Niesar

Date

Christine Niesar

Date

Sept 3/22

STATE OF SOUTH CAROLINA	)	IN THE PROBATE COURT
	)	FOURTEENTH JUDICIAL CIRCUIT
COUNTY OF BEAUFORT	)	
	)	CASE NO. 2025-CP-07-00873
IN THE MATTER OF:	)	
GEORGE FRANCIS NIESAR	)	
(Decedent)	)	
	)	RETURN TO PLAINTIFF'S
GERALD VIGLIONE NIESAR,	)	MOTION FOR SUMMARY JUDGMENT
Individually and as Personal Representative)		
Of the Estate of Geroge Francis Niesar,	)	
Plaintiff,	)	
Vs.	)	
	)	
CHRISTINE NEMETH,	)	
Defendant.	)	
_____	)	

TO: ROBERT BRUNSON, ESQ., ATTORNEY FOR THE PLAINTIFF:

PROCEDURE

1. This case was originally filed in Federal Court.
2. Plaintiff's case was unceremoniously and informally kicked out of Federal Court by letter of Federal Judge David C. Norton dated October 8, 2024 (attachment A).
3. Plaintiff then inexplicably filed suit against the Defendant *simultaneously* in Beaufort County Probate Court and in this honorable court.

FACTS

4. At the time of George F. Niesar's death, the Plaintiff, Gerald Viglione Niesar was not an heir of his brother George Francis Niesar.
5. The real property in question (1105 Bluffton Parkway, Bluffton, SC 29910) that the Plaintiff refers to in his Complaint was deeded to the decedent, George Francis Niesar and the Defendant as joint tenants with right of survivorship.
6. The Divorce Decree between George Francis Niesar and the Defendant does not mention the property in question and so its joint status with right of survivorship remains in effect.

7. Paragraph 36 of the Amended Complaint states, “After George and Defendant divorced their joint tenancy with right of survivorship in the property severed.” This is nonsense, especially as George named Christine sole heir in his 2018 Last Will and Testament (attachment B).

8. This case was not immediately probated because the estate had no assets, just a joint checking account and the property at 1105 Bluffton Parkway, Bluffton, SC 29910.

9. Plaintiff’s contention that “the Estate owned one-half interest in the property” is absurd. Christine was willed the property.

WHEREFORE, this case should be dismissed and remanded to the Beaufort County Probate Court with an award of attorney fees.

Beaufort County, SC
October 7, 2025

s/Russ Keep, III
Russ Keep, III
S.C. Bar #3321
Post Office Box 5877
Hilton Head Island, SC 29938
(P) 843-842-6268
(F) 843-785-8458
hhlaw@hargray.com
Attorney for the Defendant/
Christine Nemeth



UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH CAROLINA

Post Office Box 835
Charleston, South Carolina 29402

DAVID C. NORTON
UNITED STATES DISTRICT JUDGE

TELEPHONE (843) 579-1450
FAX (843) 579-1459

October 8, 2024

The Honorable Heather R. Galvin
Beaufort County Probate Court
P.O. Box 1083
Beaufort, South Carolina 29901

Re: Niesar v. Nemeth
C/A No. 9:23-cv-04660-DCN

Dear Judge Galvin:

The above-referenced case was filed in the United States District Court for the District of South Carolina on September 15, 2023. It is closely related to a matter that is currently pending before you in the Beaufort County Probate Court ("Probate Court"). The probate matter is currently stayed pending resolution of the case in federal court. However, based on an argument recently raised for the first time in the federal matter, it seems that it may be appropriate for the Probate Court to proceed with the estate administration process before disposition of the case in federal court.

As you may remember, George Francis Niesar ("George") died on October 7, 2022. At the time of his death, George and his ex-wife, Christine Nemeth ("Nemeth"), co-owned a property in Bluffton, South Carolina (the "Property"). Nemeth, purportedly acting under the authority of George's power of attorney, sold the Property shortly after George's death and retained the proceeds of that sale. Nemeth did not immediately file a will or initiate probate proceedings at that time.

In May 2023, George's brother, Gerald Viglione Niesar ("Gerald"), filed a petition to probate George's Estate, and the Probate Court named Gerald personal representative of George's Estate in In re: George Francis Niesar, Case No. 2023-ES-07-00417. Gerald then filed the federal case on the Estate's behalf on September 15, 2023, in which he asserts various common law tort claims against Nemeth arising out of her sale of the Property and retention of the proceeds from that sale. On October 13, 2023, while both the probate matter and the federal case were pending, Nemeth filed a document in the Probate Court purporting to be George's will. If valid, this purported will devises George's entire Estate to Nemeth. In January 2024, Nemeth filed petitions in the Probate Court to be named as the personal representative of George's Estate and for formal testacy of the purported will. The following month, the Probate Court stayed proceedings pending resolution of the federal case.

One of the causes of action Gerald pursues on the Estate's behalf in federal court is breach of fiduciary duty. In a recent filing, he theorized, for the first time, that Nemeth's allegedly unlawful removal of the Property from the Estate after George's death gave rise to a fiduciary relationship between Nemeth and the Estate. ECF No. 45 at 10. In support of this argument, he cited to the section of the South Carolina Probate Code defining the concept of executor de son tort and an 1889

The Honorable Heather R. Galvin
 October 8, 2024
 Page 2

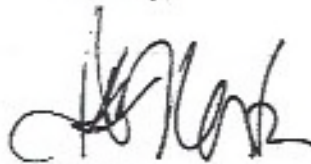
case citing a previous version of that statute. *Id.* (first citing S.C. Code Ann. § 62-3-619; and then citing *Davega v. Henry*, 10 S.E. 72, 74 (S.C. 1889)).

In reviewing the relevant sections of the Probate Code, it appears that only the Probate Court has the authority to hold someone accountable as an executor de son tort. *See* S.C. Code Ann. § 62-3-620 ("Acting sua sponte or upon the petition of any interested person, the probate judge . . . may order the executor de son tort to account for the property in his possession." (emphasis added)); *see also* *Judy v. Judy*, 712 S.E.2d 408, 412-14 (S.C. 2011) (discussing Section 62-3-620 and finding that it confers jurisdiction to the probate court to hear a claim for waste related to the destruction of value of an estate's real property). Indeed, this remedy appears to be interwoven in the estate administration process. *See* S.C. Code Ann. § 62-3-619 ("[T]he value of the property shall be deducted from any distribution or payment of any claim or commission to which the executor de son tort is entitled from the estate."); *accord* *Maryland v. Territory of Md.*, 2017 WL 1807157, at *5 (D. Md. May 5, 2017) (finding that the plaintiffs' claims of executor de son tort fail under Maryland law because the case does not involve the administration of an estate). Moreover, while the federal court has jurisdiction over Gerald's tort claims, jurisdiction over administration of George's Estate rests exclusively with the Probate Court. *See* *Marshall v. Marshall*, 547 U.S. 293, 311-12 (2006). Consequently, if Gerald is entitled to a remedy in this case, the Probate Code appears to envision that he find that remedy in the Probate Court.

Out of respect for the Probate Court's jurisdiction, and in recognition of the limitations of the federal court's jurisdiction, I was hoping you could advise on how you wish to proceed. My proposal is that the Probate Court lift its stay and begin the process of administering George's Estate and that the federal court stay its case pending resolution of the probate matter. It is likely that the conclusion of the Estate administration process will obviate the need for further proceedings in federal court. If it does not, the parties would, of course, be free to return to federal court and litigate any remaining claims. I look forward to hearing how you would prefer to move forward.

With kind regards, I am

Sincerely,



David C. Norton
 United States District Judge

DCN/ess

cc: Robert H. Brunson, Esq.
 Charles Russell Keep, III, Esq.

**LAST WILL AND TESTAMENT
OF
GEORGE FRANCIS NIESAR**

Dated: December 17, 2018

Prepared by:

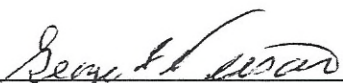
Legal Assistance Office
MCRD Parris Island
27 Atsugi St., Bldg 400
Parris Island, SC 29905
843-228-2559

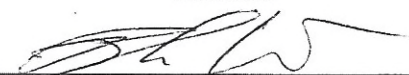
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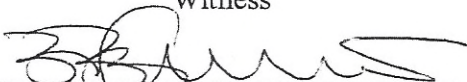
MILITARY TESTAMENTARY INSTRUMENT SELF-PROVING AFFIDAVIT

STATE OF SOUTH CAROLINA, COUNTY OF BEAUFORT

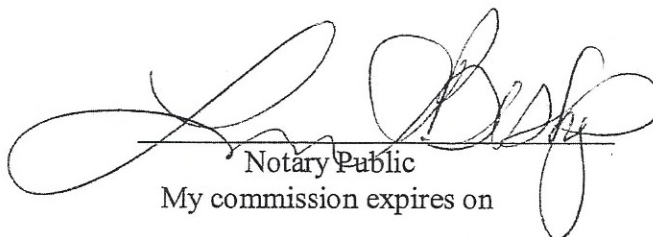
We, the Testator and the witnesses, whose names are signed to the attached or foregoing instrument, being first duly sworn, do hereby declare to the undersigned authority that in the presence of the military legal counsel and the witnesses the Testator, George Francis Niesar, signed and executed the instrument as his military testamentary instrument, that he had signed willingly, and that he executed it as his free and voluntary act and deed for the purposes therein expressed. It is further declared that each of the witnesses, at the request of the Testator, in the presence and hearing of the Testator, the military legal assistance counsel and each other, signed the military testamentary instrument as witness, and that to the best of his or her knowledge the Testator was at the time at least eighteen years of age or emancipated, of sound mind, and under no constraint, duress, fraud or undue influence.


George Francis Niesar
Testator


print: Blake A. Morris
Witness


print: Z. Bennington
Witness

Subscribed, sworn to and acknowledged before me by the said George Francis Niesar, Testator, and subscribed and sworn to before me by the above-named witnesses, this 17th day of December, 2018.


Notary Public
My commission expires on

LISA A. BISHOP
SOUTH CAROLINA
NOTARY PUBLIC
EXP. 14 APR 25



MILITARY TESTAMENTARY PREAMBLE: This is a **MILITARY TESTAMENTARY INSTRUMENT** prepared pursuant to Title 10 United States Code, Section 1044d, and executed by a person authorized to receive legal assistance from the military services. Federal law exempts this document from any requirement of form, formality, or recording that is prescribed for testamentary instruments under the laws of a state, the District of Columbia, or a territory, commonwealth or possession of the United States. Federal law specifies that this document shall be given the same legal effect as a testamentary instrument prepared and executed in accordance with the laws of the jurisdiction in which it is presented for probate. It shall remain valid unless and until the Testator revokes it.

LAST WILL AND TESTAMENT

OF

GEORGE FRANCIS NIESAR

I, George Francis Niesar, a resident of the State of South Carolina, make, publish and declare this to be my Last Will and Testament, revoking all wills and codicils at any time heretofore made by me. I am retired from the military service of the United States.

FIRST: I direct that the expenses of my last illness and funeral, the expenses of the administration of my estate, and all estate, inheritance and similar taxes payable with respect to property included in my estate, whether or not passing under this will, and any interest or penalties thereon, shall be paid out of my residuary estate, without apportionment and with no right of reimbursement from any recipient of any such property.

SECOND: It is my desire that, upon my death, I be cremated and that Christine Nemeth have full authority over my remains. I have not contracted for or paid for any funeral arrangements.

THIRD: I give to my daughter Catherine Heft, if she survives me, the smallest portion of my estate, if any, required to be given to my daughter Catherine Heft under applicable law, after taking into account the aggregate value of any other property passing to them under this will or otherwise. It is my desire and intent that my daughter Catherine Heft be disinherited by me to the fullest extent permitted by law. All provisions of this will, including without limitation any provisions which may refer to "my daughter Catherine Heft" or "issue", and any provisions which may refer to persons taking by intestacy, shall be construed to effectuate such disinheritance of my daughter Catherine Heft.

FOURTH: I give all my real estate, and all rights that I have under any related insurance policies, to my friend Christine Nemeth, if she survives me.

FIFTH: I give all tangible personal property owned by me at the time of my death, including without limitation personal effects, clothing, jewelry, furniture, furnishings, household goods, automobiles and other vehicles, and all rights that I have under any related insurance policies, to my friend Christine Nemeth, if she survives me.

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SIXTH: I give all the rest, residue and remainder of my property and estate, both real and personal, of whatever kind and wherever located, that I own or to which I shall be in any manner entitled at the time of my death (collectively referred to as my "residuary estate"), as follows:

- (a) To that of my friend Christine Nemeth, if she survives me, to Christine Nemeth outright.
- (b) If Christine Nemeth does not survive me, then my residuary estate shall be paid and distributed to my brother Gerald Niesar if he shall survive me. If none of the aforesaid beneficiaries of my residuary estate shall survive me, my residuary estate shall be paid and distributed to my son Eric Niesar if he shall survive me.
- (c) If none of the beneficiaries described in clauses (a) and (b) above shall survive me, then I give my residuary estate to those who would take from me as if I were then to die without a will, unmarried and the absolute owner of my residuary estate, and a resident of the State of South Carolina.

SEVENTH: If any property of my estate vests in absolute ownership in a minor or incompetent, my personal representative, at any time and without court authorization, may: distribute the whole or any part of such property to the beneficiary; or use the whole or any part for the health, education, maintenance and support of the beneficiary; or distribute the whole or any part to a guardian, committee or other legal representative of the beneficiary, or to a custodian for the beneficiary under any gifts to minors or transfers to minors act, or to the person or persons with whom the beneficiary resides. Evidence of any such distribution or the receipt therefor executed by the person to whom the distribution is made shall be a full discharge of my personal representative from any liability with respect thereto, even though my personal representative may be such person. If such beneficiary is a minor, my personal representative may defer the distribution of the whole or any part of such property until the beneficiary attains the age of eighteen (18) years, and may hold the same as a separate fund for the beneficiary with all of the powers described in Article EIGHTH hereof. If the beneficiary dies before attaining said age, any balance shall be paid and distributed to the estate of the beneficiary.

EIGHTH: I appoint my friend Christine Nemeth to be my personal representative. I direct that no personal representative shall be required to file or furnish any bond, surety or other security in any jurisdiction.

NINTH: I grant to my personal representative all powers conferred on personal representatives and executors under the South Carolina Probate Code, as amended, or any successor thereto, and all powers conferred upon personal representatives and executors wherever my personal representative may act. I also grant to my personal representative power to retain, sell at public or private sale, exchange, grant options on, invest and reinvest, and otherwise deal with any kind of property, real or personal, for cash or on credit; to hold, manage, insure, repair, improve, demolish, divide, and otherwise deal with and dispose of any property; to borrow money and mortgage, encumber or pledge any property to secure loans; to pay any legacy or distribute, divide or partition property in cash or in kind, or partly in kind, and to allocate different kinds of

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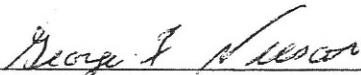


property, disproportionate amounts of property and undivided interests in property among any parts, funds or shares; to determine the fair valuation of property, with or without regard to tax basis; to exercise all powers of an absolute owner of property; to compromise and release claims with or without consideration; and to employ attorneys, accountants and other persons for services or advice. The term "personal representative" wherever used herein shall mean the personal representatives, executors, executor, executrix or administrator in office from time to time.

TENTH: I direct that for purposes of this will a beneficiary shall be deemed to predecease me unless such beneficiary survives me by more than thirty days.

ELEVENTH: I have served in the Armed Forces of the United States. I therefore request that my personal representative make appropriate inquiries to ascertain whether there are any benefits to which I, my dependents or my heirs may be entitled by virtue of any military affiliation. I specifically request that my personal representative consult with a retired affairs officer at the nearest military installation, the Department of Veterans Affairs, and the Social Security Administration.

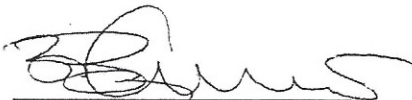
IN WITNESS WHEREOF, I, George Francis Niesar, sign my name and publish and declare this instrument as my last will and testament this 17th day of December, 2018.


George Francis Niesar

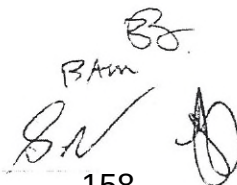
The foregoing instrument was signed, published and declared by George Francis Niesar, the above-named Testator, to be his last will and testament in our presence, all being present at the same time, and we, at his request and in his presence and in the presence of each other, have subscribed our names as witnesses on the date above written.



Print: Blake A. Morris
having an address at:
Depot Law Center
Parris Island, South Carolina 29905



Print: Z. Bennington
having an address at:
Depot Law Center
Parris Island, South Carolina 29905


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BN
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STATE OF SOUTH CAROLINA	)	
	)	
COUNTY OF BEAUFORT	)	IN THE COURT OF COMMON PLEAS FOURTEENTH JUDICIAL CIRCUIT

IN THE MATTER OF:	)	Case No. 2025-CP-07-00873
GEORGE FRANCIS NIESAR	)	
(Decedent)	)	
	)	
GERALD VIGLIONE NIESAR,	)	PLAINTIFF’S MEMORANDUM
Individually and as Personal Representative of	)	IN SUPPORT OF MOTION FOR
the Estate of George Francis Niesar,	)	SUMMARY JUDGMENT
	)	
Plaintiff,	)	
	)	
vs.	)	
	)	
CHRISTINE NEMETH,	)	
	)	
Defendant.	)	

Pursuant to Rule 56 of the South Carolina Rules of Civil Procedure, Plaintiff Gerald Viglione Niesar (“Plaintiff” or “Gerald”), in his capacity as Personal Representative of the Estate of Decedent George Francis Niesar (the “Estate”), by and through his undersigned counsel, hereby submits this Memorandum in Support of his Motion for Summary Judgment. Plaintiff respectfully submits that summary judgment is warranted on all of his causes of action and that the Estate is entitled to an entry of a judgment in the amount of \$443,000.00 plus pre- and post-judgment interest.

INTRODUCTION

This dispute involves claims brought by an estate against an alleged debtor of the estate, the Decedent’s ex-wife, Defendant Christine Nemeth (“Nemeth”). Plaintiff is Decedent’s brother and, as Personal Representative of his Estate, seeks damages arising from Nemeth’s wrongful conversion and retention of half of the proceeds from the sale of real property owned by Nemeth

and Decedent initially (during their marriage) as joint tenants with rights of survivorship but, later, as tenants in common by operation of law because of their divorce. Plaintiff asserts that after Decedent's death, Decedent's Estate had an ownership right to half of the proceeds of the sale of the property because when Decedent and Nemeth divorced in 2007, their joint tenancy with rights of survivorship in the Property severed. It is undisputed that Nemeth sold the property after Decedent's death and did not share any of the proceeds from the sale of the property with Decedent's Estate. Plaintiff now seeks to recover from Nemeth those wrongfully converted assets that rightfully belong to Decedent's Estate.

BACKGROUND

Decedent married Nemeth on March 29, 1989. Exhibit A, at 2, 19; Complaint, at ¶ 6; Answer, at ¶ 2. Decedent was previously married and had two children from this former marriage. Compl., at ¶ 7; Answer, at ¶ 2. Decedent and Nemeth had no children together. Compl., at ¶ 7; Answer, at ¶ 2. During their marriage, Decedent and Nemeth purchased the property known as 1105 Bluffton Parkway, Bluffton, South Carolina 29910, with Beaufort County Tax Map Parcel Numbers R600-029-000-0034-0000 and R600-029-000-011A-0000 (the "Property") as joint tenants with rights of survivorship. Exhibit B; Compl., at ¶ 8; Answer, at ¶ 2. There was no mortgage on the Property. Compl., at ¶ 8; Answer, at ¶ 2. Nemeth filed for divorce on May 7, 2007, and the Final Order of Divorce was issued by the Beaufort County, South Carolina Family Court on July 18, 2007. Exhibit A; Compl., at ¶ 9; Answer, at ¶ 2. The Final Order of Divorce does not reference the Property at all. Exhibit A; Defendant's Return to Plaintiff's Motion for Summary Judgment ("Return"), at ¶ 6. It was at this point that, by simple operation of law, Nemeth's and Decedent's joint tenancy with rights of survivorship severed and

became a tenancy in common *without* rights of survivorship. See S.C. Code Ann. §§ 27-7-40(a)(vii); 62-2-507(c)(2).

On September 3, 2022, Decedent and Nemeth entered into a contract to sell the Property to the Beaufort County School District (“BCSD”) for \$886,000, with a closing date of October 31, 2022. Exhibit C; Compl., at ¶ 14; Answer, at ¶ 2. Through several emails on or around October 5, 2022, Decedent and Nemeth’s attorney informed the BCSD that Decedent was hospitalized and his outcome was uncertain. Compl., at ¶ 14; Answer, at ¶ 2.

As Nemeth admits, Decedent died on October 7, 2022. Exhibit D; Compl., at ¶ 15; Answer, at ¶ 2. On the day of Decedent’s death, Nemeth forwarded to the BCSD a picture of a Power of Attorney (the “POA”) executed in her favor by Decedent on December 17, 2018 and indicated that because Decedent lacked capacity to close the sale of the Property, Nemeth would close for him pursuant to her authority under the POA. Exhibit E; Compl., at ¶ 16; Answer, at ¶ 2. On October 12, 2022, Nemeth executed and delivered to the BCSD an affidavit falsely stating the POA remained in force and that Decedent was still alive, even though Decedent died five days earlier, and the POA terminated upon his death under S.C. Code Ann. § 62-8-110(a)(1). Exhibit F. On or about October 31, 2022, Nemeth sold the Property to the BCSD for \$886,000.00 (the “Sale”). Exhibit G; Exhibit H; Exhibit I (stating that the “effective date of closing” was October 31, 2022). Nemeth is the only grantor present on the deed conveying the Property, and Nemeth alone collected the full amount of the Sale’s proceeds. Exhibits G–H. It was only after receiving the entire proceeds that Nemeth on November 3, 2022 recorded Decedent’s death certificate, wrongfully concealing his death until the transaction had closed. Exhibit D.

STANDARD OF REVIEW

In South Carolina, summary judgment is proper when the pleadings, depositions, affidavits, and discovery on file show there is no genuine issue of material fact such that the moving party must prevail as a matter of law. *See* Rule 56(c), SCRCPP; *Knight v. Austin*, 396 S.C. 518, 521, 722 S.E.2d 802, 804 (2012); *Kitchen Planners, LLC v. Friedman*, 440 S.C. 456, 463, 892 S.E.2d 297, 301 (2023) (eliminating the “mere scintilla” standard and holding the proper standard is the “genuine issue of material fact” standard set forth in the text of Rule 56(c), SCRCPP). In determining whether any triable issues of fact exist, the evidence and all inferences which can be reasonably drawn therefrom must be viewed in the light most favorable to the non-moving party. *Shaw v. City of Charleston*, 351 S.C. 32, 38, 567 S.E.2d 530, 534 (2002). Although a court considering summary judgment is to view the evidence in the light most favorable to the non-moving party, “a party may not create a genuine issue of material fact through speculation or guesswork.” *In re Eleanor McCarthy Lenahan Tr. under agreement Dated July 12, 2001*, 428 S.C. 598, 605, 836 S.E.2d 793, 797 (Ct. App. 2019).

ARGUMENT

None of the facts material to Plaintiff’s claims are in dispute. This case presents only pure questions of law, which should be decided in Plaintiff’s favor. Accordingly, the Court should grant summary judgment on all of Plaintiff’s claims.

I. Plaintiff is entitled to summary judgment on his claim for conversion.

Conversion is the “unauthorized assumption and exercise of the right of ownership over goods or personal chattels belonging to another, to the alteration of the condition or the exclusion of the owner’s rights.” *Regions Bank v. Schmauch*, 354 S.C. 648, 667, 582 S.E.2d 432, 442 (Ct. App. 2003) (citation and internal quotation marks omitted). To establish a cause of action for

conversion, “a plaintiff must prove (1) an interest by the plaintiff in the thing converted; (2) the defendant converted the property to his or her own use; and (3) the use was without the plaintiff’s permission.” *Builders Source Direct v. Cosco Logistics (Americas) Inc.*, 2008 WL 11349731, at *11 (D.S.C. 2008) (citing *Crane v. Citicorp Nat’l Servs., Inc.*, 313 S.C. 70, 437 S.E.2d 50 (1993), *superseded by statute on other grounds*)). “[I]t is essential that the plaintiff establish either title to or right to the possession” of the property at the time of conversion. *Regions Bank*, 354 S.C. at 667, 582 S.E.2d at 442 (citation and internal quotation marks omitted).

The first element of conversion is met here because the Estate owned a one-half interest in the Property at the time of the Sale and was, therefore, entitled to receive one half of the proceeds of the Sale.¹ That is because the joint tenancy with rights of survivorship in which Nemeth and Decedent owned the Property was severed by their divorce in 2007 pursuant to South Carolina Code sections 27-7-40(a)(vii) and 62-2-507(c)(2).

Nemeth admits that she and Decedent divorced in 2007. Compl., at ¶ 9; Answer, at ¶ 2. She also admits the divorce order did not reference or disclose the Property. Exhibit A; Return, at

¹ Plaintiff acknowledges that a conversion action “does not lie when alleging the exercise of dominion or control over real property.” *Hawkins v. City of Greenville*, 358 S.C. 280, 297, 594 S.E.2d 557, 566 (Ct. App. 2004). However, as Plaintiff’s Complaint makes clear, the subject property of the conversion claim are the *proceeds* from the Sale of the Property, not the Property itself. Proceeds from the sale of real property are personal property and, therefore, may be subject to a conversion claim. *See SSI Med. Servs., Inc. v. Cox*, 301 S.C. 493, 498, 392 S.E.2d 789, 792 (1990) (“Money may be the subject of conversion when it is capable of being identified and there may be conversion of determinate sums even though the specific coins and bills are not identified.”); affirming summary judgment in plaintiff’s favor on its claim for conversion where plaintiff sufficiently established defendant wrongfully retained at least \$121,489.64 from the sale of automobiles leased by plaintiff); *Alisa A. Peskin-Shepherd, PLLC v. Blume*, 974 N.W.2d 835, 836 (Mich. 2022) (“It is true that proceeds of a real-estate sale are personal property and thus may be subject to conversion.”); *Stewart v. Young*, 226 N.W. 222, 224 (Mich. 1929) (holding that when real estate is sold without permission of all parties involved, “such proceeds are not real estate, but personal property”).

¶ 6. Those two facts alone are sufficient to sever Nemeth's rights of survivorship under South Carolina law.

S.C. Code § 27-7-40(a)(vii) clearly and unequivocally states, "Any joint tenancy in real estate held by a husband and wife with no other joint tenants ***is severed upon the filing of an order or decree dissolving their marriage and vests the interest in both the parties as tenants in common***, unless an order or decree of a court of competent jurisdiction otherwise provides." (emphasis added). Similarly, S.C. Code § 62-2-507(c)(2) provides:

Except as provided by the express terms of a governing instrument, a court order, or a contract relating to the division of the marital estate made between the divorced individuals before or after the marriage, divorce or annulment, the ***divorce or annulment of a marriage . . . severs the interests of the former spouses in property held by them at the time of the divorce or annulment as joint tenants with the right of survivorship so that the share of the decedent passes as the decedent's property and the former spouse has no rights by survivorship***. This provision applies to joint tenancies in real and personal property, joint and multiple-party accounts in banks, savings and loan associations, credit unions, and other institutions, and any other form of co-ownership with survivorship incidents.

Id. (emphasis added).

Thus, because the divorce order does not provide otherwise, nor is there any other court order or governing instrument that provides otherwise, Decedent's and Nemeth's joint tenancy with rights of survivorship in the Property severed upon their divorce and became a tenancy in common without any rights of survivorship.

Nemeth has made no argument as to how she retained survivorship rights in light of these statutes but incorrectly asserts without any explanation that she retained rights of survivorship upon Decedent's death because of a document dated December 17, 2018 and titled, "Last Will and Testament of George Francis Niesar" ("Purported Will") that claims to make Nemeth the sole beneficiary of all of Decedent's property, including his real estate. The Purported Will,

however, could not change the fact that Decedent's and Nemeth's joint tenancy previously severed upon their divorce in 2007 and that the Property, therefore, became a part of Decedent's Estate upon his death. Further, the personal representative of an estate obviously has superior rights to all assets in a probate estate for the very purpose of protecting the rights of all beneficiaries, interested persons, and, as here, creditors of the estate. *Estate of Livingston v. Livingston*, 404 S.C. 137, 145, 744 S.E.2d 203, 208 (Ct. App. 2013) (holding that "[b]ecause [the personal representative] retained the authority over the estate as the PR, the [real] property did not pass to [the devisee named in the Will to inherit the real property] despite his status as a named heir in the will. The probate code presents this as an absolute right derived out of necessity to manage the estate. Thus, when a PR asserts his or her authority over the property, the PR usurps the rights of the heirs regarding control of the real property while the estate is still being administered.").

Accordingly, after Decedent's death, Nemeth did not own the Property outright; instead, Nemeth and Decedent's Estate each had an equal ownership percentage in the Property. Therefore, there is no dispute that one-half of the proceeds from the Sale legally and equitably belonged to the Estate.

The second element of conversion is also satisfied. Nemeth does not and cannot dispute that she sold the Property to the BCSD for \$886,000, that Nemeth is the only grantor present on the deed conveying the Property to the BCSD, and that Nemeth collected the full purchase price after the Sale and kept it for herself alone without distributing the proceeds equally between herself and the Estate. Exhibits G–H. As a result, there is no genuine issue that Nemeth converted half of the proceeds from the Sale of the Property and, thereby, converted an asset that rightfully belongs to Decedent's Estate.

With respect to the third element of conversion, there is no factual dispute that the Estate did not permit or authorize Nemeth to keep the full proceeds from the Sale. It is uncontroverted that before Nemeth sold the Property and appropriated all of the Sale proceeds for herself alone, she did **not** submit any Will of Decedent to probate or petition for her appointment as Personal Representative of the Estate.

Therefore, the Court should enter summary judgment in favor of Plaintiff on his claim for conversion, and the Court should order Nemeth to pay damages equal to \$443,000.00, which is half of the proceeds from the Sale, plus pre-judgment and post-judgment interest. *Robbins v. First Fed. Sav. Bank*, 294 S.C. 219, 225, 363 S.E.2d 418, 422 (Ct. App. 1987) (stating that “the measure of damages for money which has been converted is its amount with legal interest from the date of conversion”).

II. Plaintiff is entitled to summary judgment on his claim against Nemeth for liability as executor de son tort.

Plaintiff is also entitled to summary judgment on his cause of action against Nemeth for her liability as an executor de son tort of Decedent’s Estate. Under S.C. Code Ann. § 62-3-619, “[a]ny person who obtains, receives, or possesses property of whatever kind, belonging to the decedent, by means of fraud or without paying valuable consideration equivalent to the value of the property, shall be charged and chargeable as executor of his own wrong (executor de son tort) with respect to the goods and debts.” In such cases, “[t]he value of the property is charged to the executor de son tort,” and “shall be deducted from any distribution or payment of any claim or commission to which the executor de son tort is entitled from the estate.” *Id.*

As discussed at greater length above, Nemeth’s and Decedent’s joint tenancy with rights of survivorship in the Property severed upon their divorce. Accordingly, when Decedent died, his one-half interest in the Property did not vest in Nemeth but remained in his Estate. Nemeth

obtained, received, and possesses all of the proceeds from the Sale of the Property, one-half of which belongs to the Estate. Nemeth did not pay any consideration to the Estate for the Estate's one-half ownership interest in the Property, Decedent's rights under the contract to sell the Property, or one half of the proceeds from the Sale of the Property. Accordingly, Nemeth is liable to Decedent's Estate as executor de son tort for one-half of the proceeds of the Sale.

Therefore, the Court should grant summary judgment on Plaintiff's claim for liability against Nemeth as an executor de son tort of the Estate and should charge one half of the value of the proceeds of the Sale of the Property against Nemeth and deduct that amount from any distribution or payment of any claim or commission to which Nemeth is entitled to receive from the Estate.

III. Plaintiff is entitled to summary judgment on his claim for constructive trust.

The Court should also grant summary judgment on Plaintiff's claim for constructive trust. A constructive trust is an operation of law designed to remedy unjust enrichment, *Hale v. Finn*, 388 S.C. 79, 89, 694 S.E.2d 51, 57 (Ct. App. 2010), and "arises whenever a party has obtained money which does not equitably belong to him and which he cannot in good conscience retain or withhold from another who is beneficially entitled to it as where money has been paid by accident, mistake of fact, or fraud, or has been acquired through a breach of trust or the violation of a fiduciary duty." *SSI Med. Servs.*, 301 S.C. at 500, 392 S.E.2d at 793-94.

There is no genuine issue that Nemeth has been unjustly enriched by her unlawful and fraudulent procurement and retention of the full proceeds of the Property's Sale, when one half of those proceeds belong to the Estate. The proceeds of the Sale do not equitably belong to Nemeth, and she cannot in good conscience retain or withhold them from the Estate. Therefore, Plaintiff is entitled to the imposition of a constructive trust over the portion of the proceeds from

the Property's Sale that rightfully belong to Decedent's Estate that Nemeth improperly retained for herself. *See SSI Med. Servs.*, 301 S.C. at 501, 392 S.E.2d at 794 (affirming summary judgment in plaintiff's favor on its claim for constructive trust where the "profits [the defendant] retained from the sale of the vehicles were acquired through a breach of trust and fiduciary duty" and, therefore, "did not equitably belong to [the defendant]").

CONCLUSION

Based on the above, Plaintiff respectfully requests that the Court grant Plaintiff's Motion for Summary Judgment and enter judgment in his favor in the amount of \$443,000 plus pre- and post-judgment interest.

NELSON MULLINS RILEY & SCARBOROUGH LLP

By: /s/ Robert H. Brunson

Robert H. Brunson (S.C. Bar No. 11987)
 Email: robert.brunson@nelsonmullins.com
 John P. Bozeman (S.C. Bar No. 105262)
 Email: John.bozeman@nelsonmullins.com
 151 Meeting Street / Sixth Floor
 Post Office Box 1806 (29402-1806)
 Charleston, SC 29401-2239
 (843) 853-5200

*Attorneys for Plaintiff Gerald Viglione Niesar, individually and
 as Personal Representative of the Estate of George Francis
 Niesar*

Charleston, South Carolina
 October 24, 2025

Exhibit A

STATE OF SOUTH CAROLINA)

COUNTY OF BEAUFORT)

CHRISTINE NIESAR,)

Plaintiff,)

vs.)

GEORGE F. NIESAR,)

Defendant.)

IN THE FAMILY COURT
CASE NO.: 2007-DR-07-616

FINAL ORDER OF DIVORCE

FAMILY COURT
BEAUFORT COUNTY
BEAUFORT, S.C.

2007 JUL 18 PM 4:32

DATE OF HEARING:
PRESIDING JUDGE:
PLAINTIFF'S ATTORNEY:
DEFENDANT'S ATTORNEY:
COURT REPORTER:

July 20, 2007

The Honorable F. P. Segars, Jr.

Mary Kay Siren

pro se

Deborah Anderson

This matter is before this Court upon the Plaintiff's filing of a Summons and Complaint for a divorce filed on May 7, 2007 with the Clerk of Court for Beaufort County, South Carolina. The Defendant accepted service and filed an Answer on May 22, 2007. The Defendant accepted service of the Notice of Hearing on June 4, 2007.

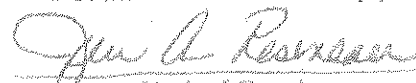
The Plaintiff; her attorney, Mary Kay Siren; and the Defendant were present at the hearing but was not represented by counsel.

FINDINGS OF FACT

Based upon the pleadings before me and the testimony presented, I make the following findings of fact:

1. The Plaintiff is a citizen and resident of Tavernier, Florida.
2. The Defendant is a citizen and resident of Beaufort County, South Carolina and has been for more than one year prior to the initiation of this action.

Certified - A True Copy


Clerk of Court
Beaufort County SC

3. The parties were married on March 29, 1989 in Beaufort County, South Carolina.
4. No children have been born of this marriage nor are any expected.
5. The parties last lived together in Beaufort County, South Carolina, and separated on September 25, 1995 and have not lived together since that time.
6. I find that this Court has jurisdiction over the parties and subject matter hereto.
7. I find that the Plaintiff is entitled to a divorce, a vinculo matrimonii, from the Defendant on the grounds of one year's continuous separation without cohabitation and hereby grant the same.
8. I find that the Plaintiff's home located in Westbury Park in Bluffton, South Carolina, shall be sold, the mortgage shall be paid in full, and any remaining proceeds shall be distributed to the Defendant. Further, the Defendant shall continue to pay the mortgage payments, taxes, and insurance on said home until it is sold.
9. I find the parties have divided their personal property to his and her satisfaction.
10. I find that each party shall retain possession of the automobile which he or she is presently driving and each shall pay any remaining indebtedness, insurance, taxes and maintenance thereon.
11. I find that neither party should receive temporary support and/or alimony, one from the other.
12. I find that the parties have divided their bank accounts to their mutual satisfaction.
13. I find that the parties shall each keep their respective retirement accounts.
14. I find that the Plaintiff shall resume the use of her maiden name of Studer.



15. I find that the parties shall each pay his or her own attorney's fees and costs in this matter.
16. The Court inquired of both parties as to whether reconciliation was possible.
Both parties indicated reconciliation was not possible.

CONCLUSIONS OF LAW

Based upon the above findings of fact and applicable law, this Court concludes as follows:

1. This Court has jurisdiction over the parties and the subject matter hereto.
2. The Plaintiff is entitled to a divorce, a vinculo matrimonii, from the Defendant on the grounds of one year's continuous separation without cohabitation.
3. The parties voluntarily appeared before this Court and they have voluntarily submitted themselves to the jurisdiction of this Court.

THEREFORE, based upon the findings of fact and conclusions of law set forth above, it is ORDERED:

- a. The Plaintiff is granted a divorce, a vinculo matrimonii, from the Defendant on the grounds of one year's separation without cohabitation;
- b. That the Plaintiff's home located in Westbury Park in Bluffton, South Carolina, shall be sold, the mortgage shall be paid in full, and any remaining proceeds shall be distributed to the Defendant. Further, the Defendant shall continue to pay the mortgage payments, taxes, and insurance on said home until it is sold;
- c. That the parties have divided their personal property to his and her satisfaction;
- d. That each party shall retain possession of the automobile which he or she is

presently driving and each shall pay any remaining indebtedness, insurance, taxes and maintenance thereon;

- e. That neither party should receive temporary support and/or alimony, one from the other;
- f. That the parties have divided their bank accounts to their mutual satisfaction;
- g. That the parties shall each keep their respective retirement accounts;
- h. That the Plaintiff shall resume the use of her maiden name of Studer; and
- i. That the parties shall each pay his or her own attorney's fees and costs in this matter.

AND IT IS SO ORDERED, this 18 day of July, 2007.

Wayne M. Creech
~~W. M. Creech~~
 Family Court Judge

Beaufort, South Carolina

4
me

Exhibit B

1400
3
1400
3

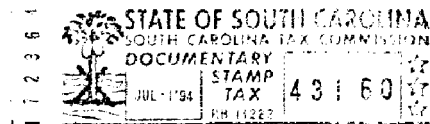
State of South Carolina,

COUNTY OF Beaufort

24488

BEAUFORT COUNTY TAX MAP REFERENCE

Dist.	Map	Submap	Parcel	Block
600	29		34	



YOUR TAX NOTICE
THE ADDRESS SHOWN ON THIS NOTICE
IF YOUR DEED WAS RECORDED IN
SEPTEMBER 15. IF THE ADDRESS IS
INCORRECT, PLEASE NOTIFY THE
COUNTY ASSESSOR.

1.56P/JFS/dms

691

505

File Number:

2650.003

BEAUFORT COUNTY, SC
REVENUE STAMPS COLLECTED
STATE 431.60 COUNTY 182.60
Real Estate Transfer Fee Collected
\$ 415.00

KNOW ALL MEN BY THESE PRESENTS, THAT

Raymond E. Jimison and Sandra H. Jimison

in the State aforesaid for and----- in consideration of the sum of
Ten and no/100 (\$10.00)----- DOLLARS,

and other valuable consideration to us in hand paid at and before the sealing of these presents by
George F. Niesar and Christine Niesar, 1 Bull Tomb Road, Bluffton, S.C. 29910

----- in the State aforesaid
for which----- the receipt whereof is hereby acknowledged, have

granted, bargained, sold and released, and by these Presents do grant, bargain, sell and release unto the said
George F. Niesar and Christine Niesar as joint tenants, with rights of survivorship, and
not as tenants in common, their heirs and assigns forever, the following described
property, to-wit:

ALL that certain piece, parcel or lot of land situate, lying and being in
Bluffton Township, Beaufort County, South Carolina, being a five (5) acre
parcel as shown on that certain plat prepared by Richard Kesselring, R.L.S.
#8105, dated June 27, 1994, entitled "A Map of A 5.00 Acres Parcel Cut From
Lands N/F of George F. and Christine Niesar As Recorded in the Office of the
Recorder for Mesne Conveyance for Beaufort County, S.C." Said plat is
recorded in the Office of the Register of Mesne Conveyances for Beaufort
County, South Carolina in Plat Book 50 at Page 32. For a more
detailed description of the property, referenced is craved to said Plat.

TOGETHER with all right, title and interest to that certain right of way
easement to Bull Tomb Road as referenced in said RMC Office in Deed Book 339
at Page 1187.

SUBJECT however to all applicable covenants, restrictions, easements, etc. of
record which are applicable to the property.

THIS being the same property or a portion thereof conveyed to Raymond E.
Jimison and Sandra H. Jimison by Deed of Decatur Federal Savings & Loan
Association dated December 21, 1992 and recorded in said RMC Office in Deed
Book 615 at Page 1180.

THE within Deed was prepared by JONES, SCHEIDER & PATTERSON, P.A., Post Office
Drawer 7049, Hilton Head Island, South Carolina 29938, by James P. Scheider,
Jr., Esquire.

BEAUFORT COUNTY TAX MAP REFERENCE: District 600, Map 29, Parcel -----.

506

TOGETHER with all and singular, the Rights, Members, Hereditaments and Appurtenances to the said Premises belonging, or in anywise incident or appertaining.

TO HAVE AND TO HOLD, all and singular, the said Premises before mentioned unto the said George F. Niesar and Christine Niesar as joint tenants, with rights of survivorship, and not as tenants in common, their Heirs and Assigns forever.

507

AND we do hereby bind ourselves and our Heirs, AssignsExecutors and Administrators, to warrant and forever defend, all and singular, the said Premises unto the said
George F. Niesar and Christine Niesartheir Heirs and Assigns, against us and our Heirs, and all persons whomsoever
may come lawfully claiming, or to claim the same or any part thereof.WITNESS our Hand a and Seal a, this 30th day of June
in the year of our Lord one thousand nine hundred and ninety four and in the two hundred and
eighteenth year of the Sovereignty and Independence of the United States of America.SIGNED, SEALED AND DELIVERED
IN THE PRESENCE OF

Witness	<u>George H. Hamlett</u>	<u>Raymond E. Jimison</u> (L.S.)
Notary Public	<u>Virginia L. Mene</u>	<u>Sandra H. Jimison</u> (L.S.)

The State of South CarolinaBeaufort County.PERSONALLY appeared before me the undersigned witnessand made oath that (s)he saw the within named Raymond E. Jimison and Sandra H. Jimison
sign, seal, and as their act and deed, deliver the within written Deed,
and that (s)he with the other witness whose signature appears above as witness
witnessed the execution thereof.
SWORN to before me, this 30thday of June A.D. 19 94
Virginia L. Mene (SEAL)
Notary Public of SC
My Commission Expires: 2/4/2004

Witness

NOT NECESSARY

RENUNCIATION OF DOWER

The State of

County.

I, _____, a Notary Public for _____

do hereby certify unto all whom it may concern, that Mrs. _____

_____ the wife of the within named _____

did this day appear before me, and upon being privately and separately examined by me, did declare that she
does freely, voluntarily, and without any compulsion, dread or fear of any person or persons whomsoever,
renounce, release and forever relinquish unto the within named _____

Heirs and assigns, all her interest and estate, and also all her right and claim of dower, of, in or to all and
singular the premises within mentioned and released.

Given under by Hand and Seal, this _____ day of _____ Anno Domini 19 _____

(SEAL)
Notary Public of
My Commission Expires:

Signature of _____

508

QAP 2597
FILED 2590
JOHN A. SULLIVAN, JR.
R.M.C.
BEAUFORT COUNTY, S.C. */MUL*
JUL -1 AM 11:41
BK 716 PG 505
FOLDER #

RECORDED THIS 1 DAY
OF August 1994
IN BOOK AA PAGE 666
Mary B. Shamp
AUDITOR, BEAUFORT COUNTY, S.C.

4/10/23

State of South Carolina



STATE OF SOUTH CAROLINA
SOUTH CAROLINA TAX COMMISSION

1144

COUNTY OF Beaufort

DOCUMENTARY
STAMP
TAX
JUL 18 '96
PB 11222

78.00

File Number:

2650.002

28361

YOUR TAX NOTICE WILL BE SENT TO
THE ADDRESS SHOWN ON YOUR DEED
IF YOUR DEED WAS RECORDED BY
SEPTEMBER 15. IF THE ADDRESS IS
INCORRECT, PLEASE NOTIFY THE
COUNTY ASSESSOR.

BEAUFORT COUNTY, SC
YOUR COUNTY'S SHARE OF
STATE OF SOUTH CAROLINA
PLEASE CONTACT THE COUNTY ASSessor
OFFICE FOR FURTHER INFORMATION

BEAUFORT COUNTY, SC
REVENUE STAMPS COLLECTED
STATE 78.00 COUNTY 35.00
Real Estate Transfer Fee Collected
\$ 75.00

KNOW ALL MEN BY THESE PRESENTS, THAT

Raymond E. Jimison and Sandra H. Jimison

in the State aforesaid for and----- in consideration of the sum of
Ten and no/100 (\$10.00)----- DOLLARS,

and other valuable consideration to us in hand paid at and before the sealing of these presents by
George F. Niesar and Christine Niesar,

1 Bull Tomb Road, Bluffton, SC 29910 in the State aforesaid
for which----- the receipt whereof is hereby acknowledged, have

granted, bargained, sold and released, and by these Presents do grant, bargain, sell and release unto the said
George F. Niesar and Christine Niesar as joint tenants, with rights of survivorship, and
not as tenants in common, their heirs and assigns forever, the following described
property, to-wit:

SEE ATTACHED EXHIBIT "A" FOR PROPERTY DESCRIPTION

BEAUFORT COUNTY TAX MAP REFERENCE

Dist.	Map	Submap	Parcel	Block
1600	29		11A	

1145

EXHIBIT "A"

ALL that certain piece, parcel or lot of land, situate, lying and being in Bluffton Township, Beaufort County, South Carolina, said parcel containing twenty-five (25) acres, said twenty-five (25) acre parcel being the westernmost twenty-five (25) acres of a forty-four (44) acre parcel, as more specifically shown and described on a Plat thereof entitled "Survey for Manfred Raich", said Plat dated January 8, 1982 and recorded in the Office of the Register of Mesne Conveyances for Beaufort County, South Carolina in Plat Book 30 at Page 36.

Said parcel is further described by reference to adjoining properties, on the north by lands now or formerly of R. J. Davis; on the east by lands now or formerly of Union Bag and Paper Corporation; on the south by lands now or formerly of Union Bag and Paper Corporation; and on the west by lands now or formerly of the heirs of Bobby Jones, Jr.

SAVE AND EXCEPT from such twenty-five (25) acre parcel all that certain five (5.00) acre parcel, said parcel more specifically shown and described on a Plat thereof entitled "A Map of a Five (5.00) Acres Parcel Cut From Lands Now Formerly of George F. and Christine Niesar" as recorded in the Office of Register of Mesne Conveyances for Beaufort County, South Carolina, said Plat dated June 27, 1994 in Plat Book 50 at Page 22.

Said five (5.00) acre parcel excluded from the within conveyance is more specifically described as to metes and bounds as follows, to wit: Commencing at a point on the northwest corner of said five (5.00) acre parcels adjoining the lands now or formerly of T.J. Davis, thence north 89 degrees 42 minutes 58 seconds east for a distance of 192.02 feet to a point; thence north 57 degrees 16 minutes 43 seconds east for a distance of 56.68 feet to a point; thence north 89 degrees 20 minutes 39 seconds east for a distance of 210.00 feet to a point; thence south 00 degrees, 39 minutes 21 seconds east for distance of 498.13 feet to a point; thence south 89 degrees 20 minutes 39 seconds west for a distance of 450.05 feet to a point; thence north 00 degrees 39 minutes 21 seconds west for a distance of 469.29 feet to a point, said point being the point of beginning.

Together with all right, title and interest in and to that certain "right-of-way easement" to Bull Tomb Road, said easement record in the Office of the Register of Mesne Conveyances for Beaufort County, South Carolina in Deed Book 339 at Page 1187.

Subject however to all applicable covenants, restrictions, easements, etc. of record which are applicable to the property.

This being the same property or portion thereof could convey to Raymond E. Jimison and Sandra H. Jimison by Deed of Decatur Federal Savings & Loan Association, said Deed dated December 21, 1992 and recorded in the Office of the Register of Mesne Conveyances for Beaufort County, South Carolina in Deed Book 615 at Page 1180.

The within Deed was prepared in the Law Offices of Jones, Scheider & Patterson, P.A., P.O. Drawer 7049, Hilton Head Island, South Carolina by James P. Scheider, Jr., Esquire (803-842-6111).

BEAUFORT COUNTY TAX MAP REFERENCE: DISTRICT 600, MAP 29, PARCEL 11 A

1146

TOGETHER with all and singular, the Rights, Members, Hereditaments and Appurtenances to the said Premises belonging, or in anywise incident or appertaining.

TO HAVE AND TO HOLD, all and singular, the said Premises before mentioned unto the said George P. Niesar and Christine Niesar as joint tenants, with rights of survivorship, and not as tenants in common, their Heirs and Assigns forever.

1147

AND we do hereby bind ourselves and our Heirs, Assigns

Executors and Administrators, to warrant and forever defend, all and singular, the said Premises unto the said George E. Niesar and Christine Niesar

their Heirs and Assigns, against us and our Heirs, and all persons whomsoever may come lawfully claiming, or to claim the same or any part thereof.

WITNESS our Hand s and Seal s, this 30TH day of June in the year of our Lord one thousand nine hundred and ninety four and in the two hundred and eighteenth year of the Sovereignty and Independence of the United States of America.

SIGNED, SEALED AND DELIVERED
IN THE PRESENCE OF

Virginia L. Niesar
Witness
George H. Hamlett
Notary Public

Raymond E. Jimison (L.S.)
Sandra H. Jimison (L.S.)

The State of South Carolina

Beaufort County.

PERSONALLY appeared before me the undersigned witness

and made oath that (s)he saw the within named Raymond E. Jimison and Sandra H. Jimison

sign, seal, and as their act and deed, deliver the within written Deed, and that (s)he with the other witness whose signature appears above as witness

witnessed the execution thereof.

SWORN to before me, this 30TH

day of June A.D. 19 94

George H. Hamlett (SEAL)
Notary Public of
My Commission Expires: 07/01/03

Virginia L. Niesar
Witness

NOT NECESSARY

The State of

RENUNCIATION OF DOWER

County.

I, _____, a Notary Public for _____

do hereby certify unto all whom it may concern, that Mrs. _____

_____ the wife of the within named _____

did this day appear before me, and upon being privately and separately examined by me, did declare that she does freely, voluntarily, and without any compulsion, dread or fear of any person or persons whomsoever, renounce, release and forever relinquish unto the within named _____

Heirs and assigns, all her interest and estate, and also all her right and claim of dower, of, in or to all and singular the premises within mentioned and released.

Given under by Hand and Seal, this _____ day of _____ Anno Domini 19 _____

(SEAL)
Notary Public of
My Commission Expires:

Signature of _____

Vaux FILED 4976
JOHN A. SULLIVAN, JR.
R.M.C.
BEAUFORT COUNTY, S.C. */MLL*
96 JUL 18 AM 11:16
BX 874 PG 1144
FOLDER #

1148

RECORDED THIS 6th DAY
OF August 19 96
IN BOOK AC PAGE 889
Mary B. Shaw
AUDITOR, BEAUFORT COUNTY, S.C.

Exhibit C

This document was prepared by
Burr & Forman LLP (SFR)
4 Clarks Summit Drive, Suite 200
Bluffton, SC 29910
(843) 815-2171

CONTRACT OF SALE

THIS CONTRACT OF SALE ("Contract") is made effective the latter date of execution below (the "Effective Date") by and between **Beaufort County School District**, with an address of P.O. Drawer 309, Beaufort, SC 29901 ("Purchaser") and **George F. Niesar and Christine Niesar**, whose address is 105 Bluffton Parkway, Bluffton, SC 29910 ("Seller").

1. **PURCHASE AND SALE OF PROPERTY.** In consideration of the mutual promises contained in this Contract, Purchaser agrees to purchase and Seller agrees to sell, upon all the terms and conditions hereafter set forth, the lots or parcels of land, with all improvements thereon, and any interests appurtenant thereto, situated in Beaufort County, South Carolina and being described as follows 1105 Bluffton Parkway, Bluffton, SC 29910 with Beaufort County Tax Map Parcel Numbers: R600-029-000-0034-0000 and R600-029-000-011A-0000 (the "Property").

2. **PURCHASE PRICE.** The total Purchase Price for the Property is EIGHT HUNDRED EIGHTY-SIX THOUSAND AND NO/100 DOLLARS (\$886,000.00) ("Purchase Price") to be paid by Purchaser as follows:

(a) \$86,000.00 earnest money deposit, to be paid to and held by Escrow Agent hereinafter named within three (3) business days of the Effective Date; and

(b) \$800,000.00 in cash, due and payable by wire transfer at Closing (as hereafter defined).

3. **FURNISHINGS, SYSTEMS.** That which is to be conveyed to Purchaser pursuant to this Contract includes all heating and air conditioning systems, all fixtures attached to the Property, all plumbing and other equipment, and shall additionally include without limitation the following:

4. **CONDITION OF PROPERTY.** Purchaser has fully examined and inspected the Property, including any personal property described in Paragraph 4 above, and agrees to purchase them "as is." Seller makes no warranty of the condition of such Property; however, all appliances, and heating and air conditioning, electric and plumbing systems shall be in good working order at Closing.

5. **CONVEYANCE OF PROPERTY.** At Closing, Seller shall convey marketable title to the Property to Purchaser in fee simple by general warranty deed, free from encumbrances, except such as are herein agreed to be assumed by Purchaser. If an owner's title commitment can be issued by an ALTA title insurance company, without any unusual or extraordinary exceptions, this shall constitute evidence of marketable title. As a condition to Purchaser completing the Closing, by Closing, Seller shall remove all personal property, waste, and debris from the Property. Seller shall retain a lawyer licensed in South Carolina to represent Seller in the transaction and to prepare

documents required on Seller's behalf including, without limitation, the deed, FIRPTA affidavit, SC I-295, and seller's title affidavit.

6. DATE AND PLACE OF CLOSING. The closing of this Contract shall take place on or before 09/31/22 2022 (the "Closing" or "Closing Date") at the office of Purchaser's attorney or other offices stipulated by Purchaser. Unless otherwise provided herein, Seller shall deliver possession of the Property to Purchaser at Closing.
7. RISK OF LOSS AND DAMAGE. The risk of loss or damage to the Property by fire or other casualty until Closing is the responsibility of Seller. In the case of loss or damage, Seller has the option to restore the Property within a reasonable time to substantially its undamaged condition or to terminate this Contract. In the event Seller elects to terminate this Contract, there shall be no further obligation of Seller to Purchaser and Escrow Agent shall return the earnest money to Purchaser.
8. PRORATIONS. All Beaufort County taxes, applicable water and sewer and other utility charges, maintenance assessments, regime fees and other applicable taxes and charges shall be prorated as of the date of Closing. Any outstanding special regime assessments shall be Seller's responsibility.
9. CLOSING EXPENSES. Seller shall be responsible for paying the Deed Recording Fee as required by Section 12-24 of the Code of Laws of South Carolina 1976, as amended (formerly referred to as documentary stamps) as well as for preparation of the deed. Purchaser shall be responsible for all financing costs, legal fees in connection with the title examination, title insurance costs, any other fees for recording the deed, any loan documentation and for any Town/County transfer fees, if applicable. As to any other expenses associated with Closing, Seller and Purchaser will pay such closing expenses customarily paid by sellers and purchasers in Beaufort County, South Carolina.
10. NO BROKERAGE FEES. Seller and Purchaser acknowledge and represent that they are dealing directly with each other with regard to this transaction and that there is no real estate broker involved or any real estate brokerage fee due. Purchaser holds Seller harmless from any claims for commission from any real estate broker with whom Purchaser may have dealt.
11. DEFAULT. Upon the failure of Purchaser to comply with the terms hereof within the stipulated time, and after receipt of notice of said default with a ten (10) day right to cure, it is understood and agreed by and between the parties hereto that Seller may: (a) at its option because of the difficulty in ascertaining actual resulting damages, retain the earnest money deposit as liquidated and agreed damages; (b) enforce the performance of this Contract by specific performance; or (c) sue for damages. Upon the failure of Seller to comply with the terms hereof within the stipulated time and after receipt of notice of said default with a ten (10) day right to cure, it is understood and agreed by and between the parties hereto that Purchaser may cancel the Contract and obtain refund of the earnest money deposit and/or proceed with all other rights and remedies at law or in equity against Seller.
12. ESCROW AGENT. Escrow Agent hereinabove referred to shall be Burr & Forman LLP, 4 Clarks Summit Drive, Suite 200, Bluffton, SC 29910, (843) 815- 2171, Attn: Sarah Robertson.

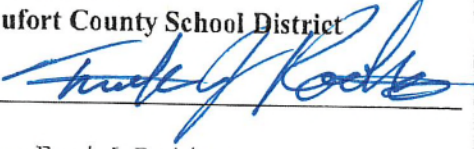
Escrow Agent shall not be charged with any knowledge until such facts are communicated to Escrow Agent in writing. Escrow Agent shall not be required to institute or maintain any litigation unless indemnified to its satisfaction for its legal fees, costs, disbursements and all other expenses and liabilities to which it may, in its judgment, be subjected in connection with this action. Seller and Purchaser shall at all times indemnify Escrow Agent against all actions, proceedings, claims or demands arising out of this transaction. Upon the failure of Purchaser to comply with the requirements as set forth herein and pursuant to the above referenced Paragraph 14, Escrow Agent shall be empowered to dispose of the earnest money deposit as provided for in said paragraph without incurring any liability. In the event of a dispute by and between Seller and Purchaser which cannot be resolved, Escrow Agent shall have the option of depositing the earnest money deposit into the Office of the Clerk of Court for Beaufort County, South Carolina pending resolution of the disposition of said funds and upon depositing said funds, Escrow Agent shall bear no further responsibility.

13. MISCELLANEOUS. If this offer is rejected by Seller, the earnest money deposit shall be returned in full to Purchaser. The invalidity or unenforceability of any provision of this Contract shall not affect the other provisions hereof and this Contract shall be construed in all respects as if such invalid and unenforceable provision were omitted. For the convenience of the parties hereto, duplicate originals of this Contract may be executed and each such original shall be deemed to be an original instrument. This Contract shall be governed and construed in accordance with the laws of the State of South Carolina. Titles of the paragraphs and subparagraphs included herein have been inserted as a matter of convenience for reference only and shall not affect the meaning or construction of any of the terms or provisions hereof. This Contract and all documents and instruments incorporated herein by specific reference are intended by the parties hereto to be the final and entire expression of their agreement and constitute a complete and exclusive statement of the terms hereof notwithstanding any representations or statements to the contrary heretofore made. In the event of litigation relating to enforcement of rights under this Contract, the prevailing party shall be entitled to recover all litigation expenses, including legal fees and court costs, from the non-prevailing party. This Contract may not be amended, modified, altered or changed in any respect whatsoever, except by a further written agreement duly executed by the parties hereto. No failure of a party to exercise any power or right granted hereunder or to insist upon strict compliance with any obligation specified herein, and not practice at variance with the terms hereof, shall constitute a waiver of said power or right unless expressly authored in writing by the affected party. Seller acknowledges that the closing agent for this transaction is required by the provisions of the Internal Revenue Code of 1986, as amended, to complete and file a Form 1099B relating to the sale and, if Seller is a non-resident of South Carolina, a withholding return will be filed with the South Carolina Department of Revenue. Seller will cooperate and provide all information required to the closing agent. This Contract shall be binding upon and inure to the benefit of the parties hereto and their respective heirs, devisees, personal representatives, successors and assigns.

Purchaser's authorized agent has executed this Contract as of the date below.

PURCHASER:

Beaufort County School District

By: 

Name: Frank J. Rodriguez

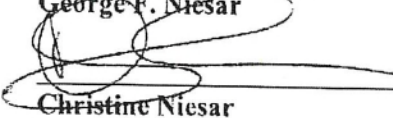
Title: Superintendent

Seller has executed this Contract as of the date below.

SELLER:


George F. Niesar

Date


Christine Niesar

Sept 3/22
Date

Exhibit D

B-7
SFR/SMB

ADD DMP Record 12/30/2022 09:41:09 AM
BEAUFORT COUNTY TAX MAP REFERENCE

Dist	Map	SMap	Parcel	Block	Week
R600	029	000	011A	0000	00

BEAUFORT COUNTY SC - ROD
BK 4195 Pgs 2118-2119
2022060703 DC
11/03/2022 03:59:35 PM
RCPT# 1110673
RECORDING FEES 10.00

ELECTRONICALLY FILED - 2025 Oct 24 11:38 AM - BEAUFORT - COMMON PLEAS - CASE#2025CP0700873

**BURR & FORMAN LLP
4 CLARKS SUMMIT DRIVE, SUITE 200
BLUFFTON, SC 29910**

**File No. 2000416.0000181SMB
Estate of George Francis Niesar**

DEATH CERTIFICATION

139-2022-046481

* GEORGE FRANCIS NIESAR *

AKA: N/A

DECEDENT INFORMATION

DATE OF DEATH: OCTOBER 07, 2022

PLACE OF DEATH TYPE: HOSPITAL-INPATIENT

PLACE OF DEATH NAME AND ADDRESS: COASTAL CAROLINA HOSPITAL, HARDEEVILLE, SC, 29927-3446

CITY OF DEATH: HARDEEVILLE

MARITAL STATUS: DIVORCED (AND NOT REMARRIED)

SURVIVING SPOUSE: N/A

MOTHER NAME: JOANNA VIGLIONE

FATHER NAME: GEORGE FELIX NIESAR

RESIDENCE: 1105 BLUFFTON PARKWAY, BLUFFTON, BEAUFORT COUNTY, SC, 29910

TIME OF DEATH: 2212

SOCIAL SECURITY NUMBER [REDACTED]

COUNTY OF DEATH: JASPER

DATE OF BIRTH: AUGUST 17, 1938

AGE: 84 YEARS

PLACE OF BIRTH: PENNSYLVANIA

SEX: MALE

ARMED FORCES: YES

INFORMANT INFORMATION

NAME: CHRISTINE NEMETH

MAILING ADDRESS: 1105 BLUFFTON PARKWAY, BLUFFTON, SC, 29910

RELATIONSHIP: EXECUTRIX

DISPOSITION/FUNERAL HOME INFORMATION

PLACE: LOWCOUNTRY CREMATORY, RIDGELAND, SC, 29936

FUNERAL HOME: SIMPLICITY LOWCOUNTRY CREM. & BUR. SVC.-BLUFFTON

FUNERAL HOME ADDRESS: 17 SHERINGTON DRIVE, SUITE D, BLUFFTON, SC, 29910

FUNERAL DIRECTOR NAME: BRYAN K KENWORTHY

EMBALMER: N/A

METHOD: CREMATION

LICENSE NUMBER: 4149

LICENSE NUMBER: N/A

MEDICAL INFORMATION

CERTIFIER: CORONER WILLIE P AIKEN III

ADDRESS: 51 PO BOX AVENUE, TILLMAN, SC, 29943

CAUSE OF DEATH - PART I:

PENDING

LICENSE NUMBER: NA

MANNER OF DEATH: PENDING INVESTIGATION

OTHER SIGNIFICANT CONDITIONS - PART II: N/A

CORONER CONTACTED?: YES

DATE OF INJURY: N/A

LOCATION OF INJURY: N/A

PLACE OF INJURY: N/A

HOW INJURY OCCURRED: N/A

AUTOPSY PERFORMED?: NO

AUTOPSY AVAILABLE?: N/A

TIME OF INJURY: N/A

INJURY AT WORK?: N/A

DATE FILED: OCTOBER 13, 2022

DATE ISSUED: OCTOBER 24, 2022

AMENDMENT HISTORY

N/A

SC10955917

This is a true certification of the facts on file in the Division of Vital Records, SC Department of Health and Environmental Control.

Edward D. Simmer, MD, MPH, DFAPA
Director and State RegistrarCaleb N. Cox
Assistant State Registrar

This is watermarked paper. Do not accept without noting watermark. Hold to light to verify watermark.

Revision Date: 08/09/2022

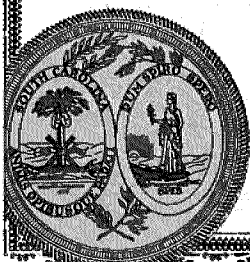


Exhibit E



DURABLE POWER OF ATTORNEY

LSST, Depot Law Center
Marine Corps Recruit Depot Parris Island
Beaufort, South Carolina 29905

PREAMBLE: This is a MILITARY POWER OF ATTORNEY prepared pursuant to Title 10 United States Code, Section 1044b, and executed by a person authorized to receive legal assistance from the military services. Federal law exempts this power of attorney from any requirement of form, substance, formality, or recording that is prescribed for powers of attorney by the laws of a state, the District of Columbia, or a territory, commonwealth or possession of the United States. Federal law specifies that this power of attorney shall be given the same legal effect as a power of attorney prepared and executed in accordance with the laws of the jurisdiction where it is presented.

SPRINGING DURABLE POWER OF ATTORNEY
(EFFECTIVE AT A FUTURE TIME)

KNOW EVERYONE BY THESE PRESENTS, which are intended to constitute a General Power of Attorney, **THAT I, George Francis Niesar**, having an address at 1105 Bluffton Parkway, Bluffton, South Carolina 29910, hereby make, constitute and appoint my friend **Christine Nemeth**, having an address at 1105 Bluffton Parkway, Bluffton, South Carolina 29910, tel. no.: (843)290-6823, as my attorney-in-fact TO ACT in my name, place and stead in any way which I could do, if I were personally present, to the extent that I am permitted by law to act through an agent:

(a) to ask, demand, sue for, recover and receive all manner of goods, chattels, debts, rents, interest, sums of money and demands whatsoever, due or to become due, that are thought to be owing, belonging or payable to me in my own right or otherwise, and to execute, acknowledge and deliver acquittances, receipts, releases, satisfactions or other discharges for the same;

(b) to sell, transfer, exchange, convert, abandon, or otherwise dispose of, or grant options with respect to, real and personal property, at public or private sale, with or without security, in such manner, at such times, for such prices, and upon such terms and conditions as my attorney-in-fact may deem necessary or appropriate;

(c) to buy, sell, exchange, invest and reinvest in common or preferred stocks, bonds, commodities, options, limited liability companies, investment trusts, mutual funds, regulated investment companies and other types of securities and financial instruments, foreign or domestic, including any undivided interest in any one or more common trust funds, whether or not such investments be of the character permissible for investments by fiduciaries under any applicable law, and without regard to the effect any such investment may have upon the diversity of investments; to demand, receive and obtain any money or other things of value to which I am or may become or may claim to be entitled in connection with any stocks, bonds or other financial instruments; to cause securities or other property to be held or registered in the name of a nominee or nominees or unregistered or in any other form; to vote in person at meetings of stock or security holders and adjournments thereof, to enter into voting trusts, and to vote by general or limited proxy with respect to any stock or securities;

(d) to make, execute, endorse, accept and deliver in my name or in the name of my attorney-in-fact all checks, notes, drafts, warrants, securities, stock certificates, certificates of deposit, bonds, acknowledgments, and any other agreements, certificates or instruments of any nature, as my attorney-in-fact may deem necessary or appropriate;

(e) to deposit and withdraw any sums to or from any bank, savings or similar account maintained by me alone or jointly; to open, continue, modify or terminate any account or banking arrangement in my name or jointly with others; to borrow money at such interest rates and upon such terms and conditions as my attorney-in-fact may deem necessary or appropriate, and to provide security therefor from my assets; to pay, renew or extend the time of payment of any note given by me or on my behalf; to prepare financial statements concerning my assets and liabilities or income and expenses, and deliver them to financial institutions; to receive statements, notices and other documents from financial institutions; to open or cause to be opened any safe deposit box in my name and to examine and remove any or all of the contents of such box; and to conduct such other banking transactions as my attorney-in-fact may deem necessary or appropriate;

(f) to take possession of, recover, obtain and hold any tangible personal property belonging to me or to which I may be entitled, and to receive and take for me and in my name any rents, issues and profits of any such property; to purchase, invest in, reinvest in, accept as a gift, sell, exchange, lease, grant options upon, assign, transfer, abandon, pledge, encumber or otherwise dispose of any personal property of any nature and wherever situate; to store property for hire or on a gratuitous bailment; to make repairs and alterations; and to execute, acknowledge and deliver all contracts, leases, notes, security agreements, guarantees, bills of sale, assignments, extensions, releases, waivers, consents, and any other agreements, writings and instruments of any nature affecting any personal property, as my attorney-in-fact may deem necessary or appropriate;

(g) to possess, recover, manage, hold, control, develop, subdivide, partition, mortgage, lease or otherwise deal with any real property belonging to me or to which I may be entitled; to purchase, invest in, reinvest in, accept as a gift, sell, exchange, lease, sublease, grant options upon, convey with or without covenants, quitclaim, assign, transfer, abandon, encumber or otherwise dispose of any real property of any nature and wherever situate; to borrow money at such interest rates and upon such terms and conditions as my attorney-in-fact may deem necessary or appropriate, and to provide security therefor by mortgage or pledge of any property; to satisfy, discharge, release or extend the term of any mortgage; to apply for zoning, rezoning or other governmental permits; to make repairs, replacements and improvements, structural or otherwise; to pay, compromise or contest real estate taxes, assessments, water charges and sewer rents; to abstain from the payment of real estate taxes, assessments, water charges and sewer rents; repairs, maintenance and upkeep of the same; to abandon property if deemed to be worthless or not of sufficient value to warrant keeping or protecting; to permit

property to be lost by tax sale, foreclosure or other proceeding or to convey property for a nominal consideration or without consideration; and to execute, acknowledge and deliver all contracts, deeds, leases, mortgages, notes, security agreements, guarantees, transfers to trusts, bills of sale, assignments, extensions, satisfactions, releases, waivers, consents, and any other agreements, writings and instruments of any nature affecting any real property, as my attorney-in-fact may deem necessary or appropriate;

(h) to commence any actions or proceedings for the recovery of any real or personal property or for any other purpose; to appear in, answer and defend any actions or proceedings commenced against me; and to prosecute, maintain, appeal, discontinue, compromise, arbitrate, mediate, settle and adjust all actions, proceedings, accounts, dues and demands that now or hereafter may exist, as my attorney-in-fact may deem necessary or appropriate;

(i) to create, amend or terminate one or more trusts, partnerships, corporations, limited liability companies, co-tenancies or any other form of ownership or entity for the purpose of dealing with any property or property interest of any nature that I may have or hereafter acquire, under such terms and with such provisions as my attorney-in-fact may deem necessary or appropriate; to transfer any or all property in which I have an interest into any trusts, partnerships, corporations, limited liability companies, co-tenancies or other entities, whether created by me or my attorney-in-fact or otherwise (and, in this regard, that my attorney-in-fact may be a remainderman, partner, shareholder, member, co-tenant or beneficiary of any such entity shall not affect the validity of any action hereunder, and shall not, by itself, constitute a breach of fiduciary duty); to remove property from any such entity; and to give to any such entity, or to any person acting as agent or trustee under any instrument executed by me or on my behalf, such instructions or authorizations as I may have the right to give;

(j) to join or become a party to, or to oppose, any reorganization, readjustment, recapitalization, foreclosure, merger, voting trust, dissolution, consolidation or exchange, and to deposit any securities with any committee, depository or trustee, and to pay any fees, expenses and assessments incurred in connection therewith, and to charge the same to principal, and to exercise conversion, subscription or other rights, and to make any necessary payments in connection therewith, or to sell any such privileges;

(k) to deal with all matters relating to all forms of insurance and annuities, including the procurement, maintenance and termination thereof; however, notwithstanding the powers given my attorney-in-fact in this and other provisions of this power of attorney, my attorney-in-fact shall have no incidents of ownership in any life insurance policy in which I own an interest and which insures the life of my attorney-in-fact;

(l) to do all acts necessary to maintain my customary standard of living and that of my family and other persons customarily supported by me, including without limitation the power to pay for medical, dental and surgical care, living quarters, usual vacation and travel expenses, shelter, clothing, food, education, organizational fees and contributions, and other living costs;

(m) to act for me in all matters which affect my right to government benefits and assistance, including without limitation Social Security, Medicare, Medicaid, qualified state tuition programs, and other governmental benefits and benefits relating to civil or military service; to file, prosecute, submit to arbitration or settle any claim for benefits or assistance; to establish new residency and domicile; and to receive the proceeds of claims and conserve, invest, disburse and use them on my behalf;

(n) to take all steps and remedies necessary or appropriate for the conduct and management of any business in which I may have an interest; to exercise in person or by proxy any right, privilege or option which I may have with respect to any business; to continue, modify, negotiate, renegotiate, extend and terminate any and all contracts or agreements heretofore or hereafter made with respect to the business; to pay, compromise or contest business taxes or other claims or obligations; to determine the policies of the business as to the location, methods and manner of its operations including its financing, accounting, and insurance; and to add or remove capital from the business;

(o) to employ such agents, attorneys, accountants, investment counsel, trustees, caretakers and other persons and entities providing services or advice, irrespective of whether my attorney-in-fact may be associated therewith, and to rely upon information or advice furnished thereby or to ignore the same, and to delegate duties hereunder and pay such compensation, as my attorney-in-fact may deem necessary or appropriate; and

(p) to do, execute, perform and finish for me and in my name all things which my attorney-in-fact shall deem necessary or appropriate in and about or concerning my property or any part thereof.

I authorize my attorney-in-fact to sell, grant options upon, convey with or without covenants, exchange, lease, assign, transfer, encumber or otherwise dispose of any real property which I own, together with all improvements thereon and rights relating thereto, in such manner, at such times, for such prices, and upon such terms and conditions as my attorney-in-fact may deem necessary or appropriate; to satisfy, discharge, release or extend the term of any mortgage or deed of trust; to apply for zoning, rezoning or other governmental permits; to pay, compromise or contest real estate taxes, assessments, water charges and sewer rents; to negotiate, execute, acknowledge and deliver all contracts, sales agreements, brokerage agreements, amendments, deeds, leases, mortgages, notes, security agreements, checks, drafts, guarantees, bills of sale, assignments, extensions, satisfactions, releases, waivers, consents, affidavits, transfer tax returns, closing documents, and any other agreements, writings and instruments of any nature affecting

the property, as my attorney-in-fact may deem necessary or appropriate; to prosecute, defend, intervene in, arbitrate, appeal, compromise, settle and otherwise deal with any claim, action or proceeding in connection with the property or the sale thereof; to do, execute, perform and finish for me and in my name all things which my attorney-in-fact shall deem necessary or appropriate in connection with the sale of the property.

I authorize my attorney-in-fact to sell, grant options upon, assign, transfer, exchange, lease, convey, encumber or otherwise dispose of any business which I own or in which I have an interest, in such manner, for such prices, and upon such terms and conditions as my attorney-in-fact may deem necessary or appropriate; to possess, recover, manage, control, or otherwise deal with the property; to negotiate, execute, acknowledge and deliver all contracts, sales agreements, brokerage agreements, amendments, bills of sale, assignments, deeds, leases, mortgages, notes, security agreements, checks, drafts, guarantees, extensions, satisfactions, releases, waivers, consents, affidavits, closing documents, and any other agreements, writings and instruments of any nature affecting the property, as my attorney-in-fact may deem necessary or appropriate; to prosecute, defend, intervene in, arbitrate, appeal, compromise, settle and otherwise deal with any claim, action or proceeding in connection with the property or the sale thereof; to do, execute, perform and finish for me and in my name all things which my attorney-in-fact shall deem necessary or appropriate in connection with the sale of the property.

In addition, I specifically authorize my attorney-in-fact to make gifts of my property to or for the benefit of such persons, charities or other entities as, in the opinion of my attorney-in-fact, would be the donees I might choose, having in mind the resources, both public and private, available for my care after the making of such gifts, and having in mind the objective of preserving the largest amount of my property for my family as a whole. The gifts may be in cash or in kind. And the gifts may pass outright to the donee, or may be transferred to an existing trust for the donee or a trust created by my attorney-in-fact for the donee, or may be transferred to an existing custodian for the donee under any gifts to minors or transfers to minors act or a custodian for the donee established by my attorney-in-fact under such acts. In no event shall any gifts be made to my attorney-in-fact, or to the creditors of my attorney-in-fact, or to the estate of my attorney-in-fact, or to the creditors of the estate of my attorney-in-fact.

In addition, I specifically authorize my attorney-in-fact to make any transfer of resources not prohibited under applicable federal or state law, when the transfer is for the purpose of qualifying me for state or federal medical care assistance or a limited casualty program for the medically needy, or for the purpose of preserving for my spouse or other relatives the maximum amount of property allowed under applicable law if an application has been made for governmental medical assistance, or in anticipation of such application and for the purpose of avoiding a Medicaid recovery lien. I specifically authorize my attorney-in-fact to amend or revoke any agreement relating to the title or status of property, any community property agreement, or other document of similar import executed by me and/or my spouse if, in the sole discretion of my attorney-in-fact, such action would be in my best interest, following advice of counsel regarding eligibility for such benefits. If any such transfer of resources is to be made to my attorney-in-fact, I my friend Christine Nemeth as special attorney-in-fact to approve such transfer.

ELECTRONICALLY FILED 2025 Oct 24 11:18 AM - DEAN FOR - COMMON PLEAS CASE # 2025CP00883

In addition, I specifically authorize my attorney-in-fact to disclaim, within the meaning of Section 2518 of the Internal Revenue Code and applicable state law, any interest in whole or in part or with respect to specific amounts, parts, fractional shares or assets, any devise, legacy, interest, right, privilege, or power to which I otherwise succeed under the Last Will of any person, by operation of law, under a beneficiary designation of any policy of insurance, under a beneficiary designation for any individual retirement account (IRA), Roth IRA, pension plan, investment account or other asset, or in any joint tenancy or survivorship interest I may have.

In addition, I specifically authorize my attorney-in-fact to deal with tax authorities, to execute, sign and file on my behalf any and all federal, state, local and foreign income, gift, payroll and other tax returns, including estimated returns and interest, dividends, gains and transfer returns, for all periods; to pay any taxes, penalties and interest due thereon; to allocate generation skipping transfer tax exemptions (within the meaning of Section 2642(a) of the Internal Revenue Code) and to make tax elections; to represent me or to sign an Internal Revenue Service Form 2848 (Power of Attorney and Declaration of Representative) or Form 8821 (Tax Information Authorization), or comparable authorization, appointing a qualified lawyer, certified public accountant or enrolled agent (including my attorney-in-fact if so qualified) to represent me before any office of the Internal Revenue Service or any state, local or foreign taxing authority with respect to the types of taxes and years referred to above, and to specify on said authorization said types of taxes and years; to receive from or inspect confidential information in any office of the Internal Revenue Service or state, local or foreign tax authority; to receive and deposit, in any one of my bank accounts, or those of any revocable trust of mine, checks in payment of any refund of federal, state, local or foreign taxes, penalties and interest; to pay by check drawn on any bank account of mine or of any revocable trust of mine and have accounts to permit my attorney-in-fact to draw checks for payment of said items; to execute waivers (and offer to execute waivers) of restrictions on assessment or collection of deficiencies in taxes and waivers of notice of disallowance of a claim for credit or refund; to execute any requests for extension of time and consents extending the statutory period for assessment or collection of such taxes; to execute petitions contesting taxes; to establish new residency and domicile; to execute offers in compromise and closing Agreements under Section 7121 or comparable provisions of the Internal Revenue Code or any federal, state, local or foreign tax statutes or regulations; to delegate authority or to substitute another representative for any one previously appointed by me or my attorney-in-fact; and to receive copies of all notices and other written communications involving my federal, state, local or foreign taxes at such address as my attorney-in-fact may designate.

In addition, I specifically authorize my attorney-in-fact to make voluntary contributions to, transfer assets between, and withdraw amounts from any qualified retirement benefit plan or individual retirement account (including Roth IRA's and Thrift Savings Plans); to change beneficiary designations on any such plan or IRA; to convert an IRA to a Roth IRA; to make elections with respect to the timing, method and amounts of withdrawals, distributions and rollovers, methods of calculating minimum required distributions, and methods of distribution a beneficiary of another's plan or IRA; and to take any other actions with respect to any plan or IRA as I could take.

Reference is made to my digital assets, an inventory of which, including a list of relevant user names and passwords, I intend to maintain. Such inventory shall be kept in a secure location and shall be made available to my attorney-in-fact upon request. My attorney-in-fact shall have all of the rights, powers and privileges that I have with respect to my digital assets. This includes the right to access, modify, delete, control, and transfer my digital assets; to access, use, and control my computers, tablets, phones and similar devices for purposes of accessing, modifying, deleting, controlling, or transferring my digital assets; and to obtain, access, modify, delete, and control my passwords and other electronic credentials associated with my digital assets. My digital assets include, without limitation, emails and email accounts, digital music, photographs and videos, software licenses, social network accounts, web hosting accounts, tax preparation services accounts, online stores, other online accounts, and similar digital items which now exist or may exist as technology develops.

This power of attorney shall take effect upon my becoming physically disabled, mentally incompetent or otherwise incapacitated. Any third party may rely upon the written declaration of my attorney-in-fact that such contingency has occurred.

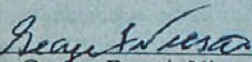
It may be necessary for my attorney-in-fact to have access to my medical records to establish that this power of attorney is in effect. I grant to my attorney-in-fact the authority and power to serve as my personal representative for all purposes of the Health Insurance Portability and Accountability Act of 1996, the regulations in 45 C.F.R. Sec. 160 et seq., and any other applicable federal, state or local laws or regulations (collectively "HIPAA"), including the authority to request, receive, obtain and review, and be granted full and unlimited access to, and consent to the disclosure of complete unredacted copies of any and all health, medical and financial information and any information or records referred to in 45 C.F.R. Sec. 164.501 and regulated by the Standards for Privacy of Individually Identifiable Health Information found in 65 Fed. Reg. 82462 as protected private records or otherwise covered under HIPAA. I understand that health and medical records can include information relating to subjects such as sexually transmitted diseases, acquired immunodeficiency syndrome (AIDS), AIDS-related complex (ARC) and human immunodeficiency virus (HIV), behavioral or mental health services, and treatment for alcohol or drug abuse or addiction. I understand that I may have access to or receive an accounting of the information to be used or disclosed as provided in 45 C.F.R. Sec. 164.524 et seq. I further understand that authorizing the disclosure of this health information is voluntary and that I can refuse to sign this authorization. I further understand that any disclosure of this information carries with it the potential for an unauthorized further disclosure of this information by third parties and that such further disclosure may not be protected under HIPAA. In order to induce the disclosing party to disclose the aforesaid private and/or protected confidential information, I forever release and hold harmless said disclosing party who relies upon this instrument from any liability under confidentiality rules arising under HIPAA as a consequence of said disclosure. I authorize my attorney-in-fact to execute any and all releases or other documents that may be necessary in order to obtain disclosure of my patient records and other medical information subject to and protected by HIPAA. The purpose of the foregoing authorization is to enable my attorney-in-fact to establish that this power of attorney is in effect.

To induce any third party to act hereunder, I hereby agree that any third party receiving a duly executed copy or facsimile of this power of attorney may act hereunder, and that revocation or

termination hereof shall be ineffective as to such third party unless and until actual notice or knowledge of such revocation or termination shall have been received by such third party. I, for myself and my heirs, executors, legal representatives and assigns, hereby agree to indemnify and hold harmless any such third party from and against any and all claims that may arise against such third party by reason of such third party having relied upon the provisions of this power of attorney.

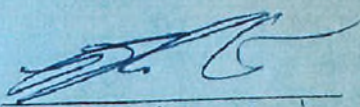
This power of attorney shall be governed by South Carolina law, although I request that it be honored in any state or other location in which I or my property may be found. If any provisions hereof shall be unenforceable or invalid, such unenforceability or invalidity shall not affect the remaining provisions of this power of attorney.

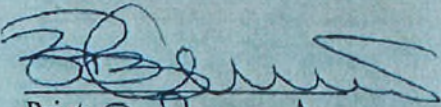
IN WITNESS WHEREOF, I have executed this power of attorney this 17th day of December, 2018.


George Francis Niesar

STATE OF SOUTH CAROLINA, COUNTY OF BEAUFORT ATTESTATION

The foregoing power of attorney was this 17th day of December, 2018, signed, sealed, published and declared by George Francis Niesar, Principal, as the Principal's appointment and empowerment of an attorney-in-fact, in the presence of us who at the Principal's request and in the Principal's presence and in the presence of each other, have hereunto subscribed our names as witnesses hereto. We, the undersigned, each being over 18 years of age, hereby witness the signing of the above power of attorney by George Francis Niesar, known to us to be the person who signed the above power of attorney as principal, at the request of and in the presence of the principal and in the presence of each other on the day and year set forth above. We believe that the principal is of sound mind, that he had the opportunity to read the power of attorney and that he signed the above power of attorney as his free and voluntary act and deed, free of duress, fraud or undue influence, for the purposes therein expressed. None of us is related to the principal by blood, marriage or adoption, and to the best of our knowledge none of us is entitled to any portion of the estate of the principal upon the death of the principal under any will or codicil or by operation of law.


Print: Blake A. Morris
having an address at:
Depot Law Center
Parris Island, South Carolina 29905

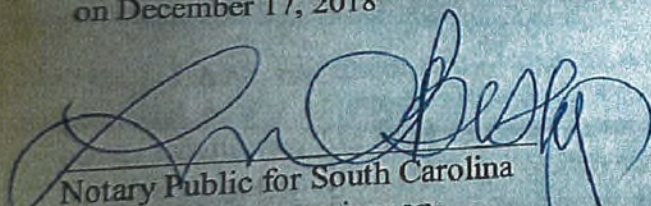

Print: Z. Bennington
having an address at:
Depot Law Center
Parris Island, South Carolina 29905

STATE OF SOUTH CAROLINA, COUNTY OF BEAUFORT PROBATE

Personally appeared before me the undersigned witness, who, being duly sworn, says that (s)he saw the within named George Francis Niesar sign, seal and as his act and deed deliver the foregoing power of attorney, and that deponent with the other witness whose name is subscribed above witnessed the execution thereof.


Blake A. MORRIS
Witness

Subscribed and sworn to before me
on December 17, 2018


Notary Public for South Carolina
My commission expires on

LISA A. BISHOP
SOUTH CAROLINA
NOTARY PUBLIC
EXP. 14 APR 25



Exhibit F

**AFFIDAVIT THAT POWER OF ATTORNEY
IS IN FULL FORCE AND EFFECT**

STATE OF South Carolina, COUNTY OF Beaufort

I, my friend Christine Nemeth, being duly sworn, depose and say:

THAT George Francis Niesar, having an address at 1105 Bluffton Parkway, Bluffton, South Carolina 29910, as principal, did, in a writing dated December 17, 2018, appoint me his true and lawful attorney-in-fact, and that attached hereto is a true copy of said power of attorney. Said power of attorney has become effective by reason of the following conditions: the principal, George Francis Niesar, lacks the capacity to manage property, including the capacity to take actions necessary to administer real and personal property, intangible property, business property, benefits and income.

THAT I have no actual knowledge or actual notice of the revocation or termination of the aforesaid power of attorney by death or otherwise, or knowledge of any facts indicating the power of attorney has been revoked or terminated. I have no actual knowledge or actual notice that the power of attorney has been modified in any way that would affect the ability of the attorney-in-fact to authorize or engage in any transaction with a third party, or knowledge of any facts indicating the power of attorney has been so modified. I further represent, to the best of my knowledge after diligent search and inquiry, that: said principal is now alive; has not, at any time, revoked, terminated, suspended or repudiated the power of attorney; and the power of attorney still is in full force and effect.

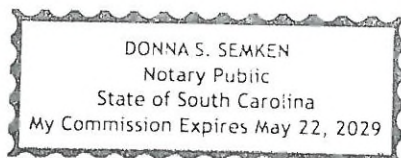
THAT I make this affidavit for the purpose of inducing to accept delivery of the following instrument(s), as executed by me in my capacity of attorney-in-fact of said principal, with full knowledge that this affidavit will be relied upon in accepting the execution and delivery of said instrument(s) and in paying good and valuable consideration therefor:

Dated:



Subscribed and sworn to before me
on October 12, 2022

Donna S. Semken
Notary Public for South Carolina
My commission expires on 5/22/2029



Donna S. Semken witness

Joellene m Kenyon
Joellene m Kenyon

Exhibit G

Said five (5.00) acre parcel excluded from the within conveyance is more specifically described as to metes and bounds as follows, to with: Commencing at a point on the northwest corner of said five (5.00) acre parcels adjoining the lands now or formerly of T. J. Davis, thence north 89 degrees 42 minutes 58 seconds east for a distance of 192.02 feet to a point; thence north 57 degrees 16 minutes 43 seconds east for a distance of 56.68 feet to a point; thence north 89 degrees 20 minutes 39 seconds east for a distance of 210 feet to a point; thence south 00 degrees, 39 minutes 21 seconds east for a distance of 498.13 feet to a point; thence south 89 degrees 20 minutes 39 seconds west for a distance of 450.05 feet to a point; thence north 00 degrees 39 minutes 21 seconds west for a distance of 469.29 feet to a point, said point being the point of beginning.

Together with all right, title and interest in and to that certain "right-of-way easement" to Bull Tomb Road, said easement recorded in the Office of the Register of Mesne Conveyances for Beaufort County, South Carolina in Deed Book 339 at Page 1187.

The property described herein being the same property conveyed by Raymond E Jimison and Sandra H. Jimison to George F. Niesar and Christine Niesar by deed recorded in Book 874 at Page 1144, Beaufort County Records on July 18, 1996 and to Christine Niesar by that certain Death Certificate for George F. Niesar recorded in Book 4195 at Page 2118, Beaufort County Records on November 3, 2022.

Tax Map No. R600 029 000 011A 0000

AND

ALL that certain piece, parcel or lot of land situate, lying and being in Bluffton Township, Beaufort County, South Carolina, being a five (5) acre parcel as shown on that certain plat prepared by Richard Kesselring, R.L.S. #8105, dated June 27, 1994, entitled "A Map of A 5.00 Acres Parcel cut From Lands N/F of George F. and Christine Niesar As Recorded in the Office of the Recorder for Mesne Conveyance for Beaufort County, S.C." Said plat is recorded in the Office of the Register of Mesne Conveyances for Beaufort County, South Carolina in Plat Book 50 at page 32. For a more detailed description of the property, reference is craved to said Plat.

TOGETHER with all right, title and interest to that certain right of way easement to Bull Tomb Road as referenced in said RMC Office in Deed Book 339 at Page 1187.

TOGETHER with a non-exclusive perpetual easement for pedestrian and vehicular access, ingress and egress in, to, over, across and through the following property:

ALL that piece, parcel and strip of land situate, lying and being in Bluffton Township, Beaufort County, South Carolina more particularly known as a "50'

Foot Right of Way for Ingress and Egress of 0.881 Acres” on a plat prepared by Thomas & Hutton Engineering Co., certified by Boyce L. Young, SCPLS No. 11079 for Resource Development Group, LLC dated April 1, 2008, and recorded in the Office of the Beaufort County Register of Deeds in Plat Book 124 at Page 128. For a more particular description of the courses, metes, bounds and distances of said property, reference is hereby made to said plat of record.

AND ALSO ALL that certain piece, parcel and or lot of land situate, lying and being shown and described as 0.030 Acres, more or less, said property having dimensions, metes and bounds as shown on the plat entitled “A Boundary Plat of 0.030 Acres, Being a Portion of Tom Zinn Property, Town of Bluffton Beaufort County, South Carolina,” on a plat by Thomas & Hutton Engineering Co., certified by Boyce L. Young, SCPLS No. 11079 for Resource Development Group, LLC, dated July 31, 2008, and recorded in the Office of the Register of Deeds for Beaufort County, South Carolina in Plat Book 126 at Page 11. For a more particular description of the courses, metes, bounds, and distances of said property, reference is hereby made to said plats of record (together, the “Easement Property”).

TOGETHER WITH the right for Grantee to (a) maintain and repair one (1) driveway for access from the Easement Property to the Benefitted Property; and (b) install, maintain, and repair a mailbox within the Easement Property (the “Encroachment”).

SUBJECT TO THE limitation that Grantee shall access the Benefitted Property from the Easement Property only at the location of the Encroachment.

SAVE AND EXCEPT:

ALL that certain piece, parcel or tract of land, with improvements thereon, located in Beaufort County, South Carolina shown and depicted as “Turn Radius Parcel” containing 0.02 Acre, more or less, on that certain plat entitled “Plat of Turn Radius Parcel and Stormwater Retention Pond Easement, a Portion of Parcels 011A & 0034”, Town of Bluffton, Beaufort County, South Carolina”, dated May 29, 2014, prepared by Surveying Consultants, certified by Terry G. Hatchell, RLS (SC No. 11059), and recorded in the Office of the Register of Deeds for Beaufort County, South Carolina in Plat Book 139 at Page 9 (the “Property”). For a more detailed description as to courses, distances, metes and bounds of the Property, reference may be had to the above described plat of record.

AND

ALL that piece, parcel and strip of land situate, lying and being in Bluffton Township, Beaufort County, South Carolina more particularly known as a “50’ Foot Right of Way for Ingress and Egress of 0.881 Acres” on a plat prepared by Thomas & Hutton Engineering Co., certified by Boyce L. Young, SCPLS No. 11079 for Resource Development Group, LLC dated April 1, 2008, and recorded

in the Office of the Beaufort County Register of Deeds in Plat Book 124 at Page 128. For a more particular description of the courses, metes, bounds and distances of said property, reference is hereby made to said plat of record.

The property described herein being the same property conveyed by Raymond E Jimison and Sandra H. Jimison to George F. Niesar and Christine Niesar by deed recorded in Book 716 at Page 505, Beaufort County Records on June 30, 1994 and to Christine Niesar by that certain Death Certificate for George F. Niesar recorded in Book 4195 at Page 2118, Beaufort County Records on November 3, 2022.

Tax Map No. R600 029 000 0034 0000

This Deed was prepared by C. Russell Keep, III, Esquire, Post Office Drawer 5877, Hilton Head Island, South Carolina 29938 without the benefit of a title examination and without opinion as to the application of the development standards ordinance or similar ordinances or regulations.

THIS CONVEYANCE IS MADE SUBJECT TO all other easements and restrictions of record and otherwise affecting the property.

TOGETHER with all and singular the Rights, Members, Hereditaments and Appurtenances to the said Premises belonging, or in anywise incident or appertaining.

TO HAVE AND TO HOLD all and singular the said premises before mentioned, unto the Grantee, its successors and assigns, its successors and assigns forever; subject, however, to the rights, conditions and restrictions that constitute covenants running with the land, all as set forth herein.

AND Grantor does hereby bind herself and her heirs, executors, administrators and assigns to warrant and forever defend all and singular the said premises unto Grantee, its successors and assigns, against Grantor and her heirs and assigns, and all persons whomsoever lawfully claiming or to claim the same, or any part thereof.

[Signatures on Following Page]

WITNESS my Hand and Seal this 29th day of October, 2022.

SIGNED, SEALED AND DELIVERED
IN THE PRESENCE OF:

(2) [Signature]
Signature of 1st Witness

(3) [Signature]
Signature of 2nd Witness/Notary Public

(1) [Signature] (SEAL)
Christine Nemeth f/k/a Christine Niesar

STATE OF SOUTH CAROLINA)
COUNTY OF BEAUFORT)

ACKNOWLEDGMENT

I, the undersigned Notary Public, do hereby certify that **Christine Nemeth f/k/a Christine Niesar**, personally appeared before me this day and acknowledged the due execution of the foregoing instrument.

Witness my hand and official seal this the 29th day of October, 2022.

(4) [Signature]
Notary Public for SC
Print Name: Ross Koop
My Commission Expires: 2024

Exhibit H

A. Settlement Statement

U.S. Department of Housing and Urban Development

OMB Approval No. 2502-0265

B. Type of Loan

1. ☐ FHA	2. ☐ FmHA	3. ☐ Conv. Unins.	6. File Number	7. Loan Number	8. Mortgage Insurance Case Number
4. ☐ VA	5. ☐ Conv. Ins.		2000416.00001815MB		
C. Note: This form is furnished to give you a statement of actual settlement costs. Amounts paid to and by the settlement agent are shown. Items marked "(p.a.c.)" were paid outside the closing; they are shown here for information purposes and are not included in the totals. WARNING: It is a crime to knowingly make false statements to the United States on this or any other similar form. Penalties upon conviction can include a fine and imprisonment. For details see Title 18 U.S. Code Section 1001 and Section 1010.					TitleExpress Settlement System Printed 10/27/2022 at 14:44 SMB
D. NAME OF BORROWER: Beaufort County School District					
ADDRESS: PO Drawer 309, Beaufort, SC 29901					
E. NAME OF SELLER: Christine Niesar					
ADDRESS: 1105 Bluffton Parkway, Bluffton, SC 29910					
F. NAME OF LENDER:					
ADDRESS:					
G. PROPERTY ADDRESS: 1105 Bluffton Pkwy, Bluffton, SC 29910					
R600 029 000 0034 0000 and R600 029 000 011A 0000					
H. SETTLEMENT AGENT: Burr & Forman LLP					
PLACE OF SETTLEMENT: 4 Clarks Summit Drive, Suite 200, Bluffton, SC 29910					
I. SETTLEMENT DATE: 10/31/2022					
J. SUMMARY OF BORROWER'S TRANSACTION:			K. SUMMARY OF SELLER'S TRANSACTION:		
100. GROSS AMOUNT DUE FROM BORROWER			400. GROSS AMOUNT DUE TO SELLER		
101. Contract sales price	886,000.00		401. Contract sales price	886,000.00	
102. Personal property			402. Personal property		
103. Settlement charges to borrower (line 1400)	20,103.80		403.		
104.			404.		
105.			405.		
Adjustments for items paid by seller in advance			Adjustments for items paid by seller in advance		
106. City/town taxes			406. City/town taxes		
107. County taxes			407. County taxes		
108. Assessments			408. Assessments		
109.			409.		
110.			410.		
111.			411.		
112.			412.		
120. GROSS AMOUNT DUE FROM BORROWER	906,103.80		420. GROSS AMOUNT DUE TO SELLER	886,000.00	
200. AMOUNTS PAID BY OR ON BEHALF OF BORROWER			500. REDUCTIONS IN AMOUNT DUE TO SELLER		
201. Deposit or earnest money	86,000.00		501. Excess Deposit (see instructions)		
202. Principal amount of new loans			502. Settlement charges to seller (line 1400)	3,308.20	
203. Existing loan(s) taken subject to			503. Existing loan(s) taken subject to		
204.			504. Payoff of first mortgage loan		
205.			505. Payoff of second mortgage loan		
206.			506.		
207.			507.		
208.			508.		
209.			509.		
Adjustments for items unpaid by seller			Adjustments for items unpaid by seller		
210. City/town taxes			510. City/town taxes		
211. County taxes 01/01/22 to 10/31/22	56.69		511. County taxes 01/01/22 to 10/31/22	56.69	
212. Assessments			512. Assessments		
213. County Taxes (0034) 01/01/22 to 10/31/22	1,361.80		513. County Taxes (0034) 01/01/22 to 10/31/22	1,361.80	
214.			514.		
215.			515.		
216.			516.		
217.			517.		
218.			518.		
219.			519.		
220. TOTAL PAID BY/FOR BORROWER	87,418.49		520. TOTAL REDUCTION AMOUNT DUE SELLER	4,726.69	
300. CASH AT SETTLEMENT FROM OR TO BORROWER			600. CASH AT SETTLEMENT TO OR FROM SELLER		
301. Gross amount due from borrower (line 120)	906,103.80		601. Gross amount due to seller (line 420)	886,000.00	
302. Less amounts paid by/for borrower (line 220)	87,418.49		602. Less reduction amount due seller (line 520)	4,726.69	
303. CASH FROM BORROWER	818,685.31		603. CASH TO SELLER	881,273.31	

SUBSTITUTE FORM 1099 SELLER STATEMENT: The information contained herein is important tax information and is being furnished to the Internal Revenue Service. If you are required to file a return, a negligence penalty or other sanction will be imposed on you if this item is required to be reported and the IRS determines that it has not been reported. The Contract Sales Price described on line 401 above constitutes the Gross Proceeds of this transaction.

SELLER'S INSTRUCTIONS: If this real estate was your principal residence, file Form 2119, Sale or Exchange of Principal Residence, for any gain, with your income tax return for other transactions, complete the applicable parts of Form 4797, Form 9252 and/or Schedule D (Form 1040).

You are required by law to provide Burr & Forman LLP. If you do not provide your correct taxpayer identification number, you may be subject to civil or criminal penalties imposed by law, and under penalties of perjury, I certify that the number shown on this statement is my correct taxpayer identification number.

TIN: SELLER 1 / SELLER 2 SELLER(S) SIGNATURE(S): SELLER 1 / SELLER 2

SETTLEMENT STATEMENT

file number: 2000416.0000181

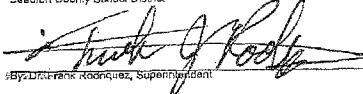
PAGE 2

TitleExpress Settlement System, Printed 10/27/2022 at 14:44 SM8

L. SETTLEMENT CHARGES		PAID FROM BORROWER'S FUNDS AT SETTLEMENT	PAID FROM SELLER'S FUNDS AT SETTLEMENT
700. TOTAL SALES/BROKER'S COMMISSION based on price \$885,000.00 @ 0.000 =			
Division of commission (line 700) as follows:			
701. \$	to		
702. \$	to		
703. Commission paid at Settlement			
800. ITEMS PAYABLE IN CONNECTION WITH LOAN			
801. Loan Origination Fee	%		
802. Loan Discount	%		
803. Appraisal Fee			
804. Credit Report			
805.			
806.			
807.			
808.			
809.			
810.			
811.			
900. ITEMS REQUIRED BY LENDER TO BE PAID IN ADVANCE			
901. Interest From	to @ \$ /day		
902. Mortgage Insurance Premium for	0 mont to		
903. Hazard Insurance Premium for	0 mont to		
904.			
905.			
1000. RESERVES DEPOSITED WITH LENDER FOR			
1001. Hazard Insurance	mo. @ \$ /mo		
1002. Mortgage Insurance	mo. @ \$ /mo		
1003. City Property Tax	mo. @ \$ /mo		
1004. County Property Tax	mo. @ \$ /mo		
1005. Annual Assessments	mo. @ \$ /mo		
1009. Aggregate Analysis Adjustment			
1100. TITLE CHARGES			
1101. Settlement or Closing Fee			
1102. Abstract or Title Search	to Burr & Forman LLP	250.00	
1103. Final Update	to Burr & Forman LLP	50.00	
1104. Title Insurance Binder	to Counsellor Title Insurance Agency, LLC	250.00	
1105. Closing Protection Letter			
1106. UPS, Copies, Courier	to Burr & Forman LLP	75.00	
1107. Attorney's Fees	to Burr & Forman LLP	6,500.00	
(includes above items No:)			
1108. Title Insurance	to Counsellor Title Insurance Agency, LLC	1,864.80	
(includes above items No:)			
1109. Lender's Policy	NONE		
1110. Owner's Policy	885,000.00 - 1,864.80		
1111.			
1112.			
1113.			
1200. GOVERNMENT RECORDING AND TRANSFER CHARGES			
1201. Recording Fees Deed \$ 15.00 ; Mortgage \$; Release \$		15.00	
1202. City/County tax/stamps Deed \$; Mortgage \$			
1203. City/County/State tax/stamps Deed \$ 3,278.20 ; Mortgage \$			3,278.20
1204. Transfer Fee Deed \$; Mortgage \$			
1205. Death Certificate Rec. Fee to Beaufort County Register of Deeds			25.00
1300. ADDITIONAL SETTLEMENT CHARGES			
1301. Survey to Surveying Consultants		7,150.00	
1302. Phase I ESA to NewKirk Environmental Inc.		3,914.00	
1303. Easement Termination to Beaufort County Register of Deeds		25.00	
1304. E-Recording Fees to Burr & Forman LLP		10.00	5.00
1400. TOTAL SETTLEMENT CHARGES (enter on lines 103, Section J and 502, Section K)		20,103.80	3,308.20

I have carefully reviewed the HUD-1 Settlement Statement and to the best of my knowledge and belief, it is a true and accurate statement of all receipts and disbursements made on my account or by me in this transaction. I further certify that I have received a copy of the HUD-1 Settlement Statement.

Beaufort County School District


Byrd Leticia Rodriguez, Superintendent

Christina Niesar

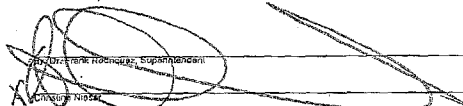
ELECTRONICALLY FILED - 2025 Oct 24 11:38 AM - BEAUFORT - COMMON PLEAS - CASE#2025CP0700873

TitleExpress Settlement System Printed 10/27/2022 at 14:44 SBA

I. SETTLEMENT CHARGES		PAID FROM BORROWER'S FUNDS AT SETTLEMENT	PAID FROM SELLER'S FUNDS AT SETTLEMENT
700. TOTAL SALES/BROKER'S COMMISSION based on price \$886,000.00 @ 0.000 =			
Division of commission (line 700) as follows:			
701. \$	to		
702. \$	to		
703. Commission paid at Settlement			
800. ITEMS PAYABLE IN CONNECTION WITH LOAN			
801. Loan Origination Fee	%		
802. Loan Discount	%		
803. Appraisal Fee			
804. Credit Report			
805.			
806.			
807.			
808.			
809.			
810.			
811.			
900. ITEMS REQUIRED BY LENDER TO BE PAID IN ADVANCE			
901. Interest From	to @ \$ /day		
902. Mortgage Insurance Premium for	0 month to		
903. Hazard Insurance Premium for	0 month to		
904.			
905.			
1000. RESERVES DEPOSITED WITH LENDER FOR			
1001. Hazard Insurance	mo. @ \$ /mo		
1002. Mortgage Insurance	mo. @ \$ /mo		
1003. City Property Tax	mo. @ \$ /mo		
1004. County Property Tax	mo. @ \$ /mo		
1005. Annual Assessments	mo. @ \$ /mo		
1009. Aggregate Analysis Adjustment			
1100. TITLE CHARGES			
1101. Settlement or Closing Fee			
1102. Abstract or Title Search	to Burr & Forman LLP	250.00	
1103. Final Update	to Burr & Forman LLP	50.00	
1104. Title Insurance Binder	to Counsellor Title Insurance Agency, LLC	250.00	
1105. Closing Protection Letter			
1106. UPS Copies, Courier	to Burr & Forman LLP	75.00	
1107. Attorney's fees	to Burr & Forman LLP	6,500.00	
(includes above items No:)			
1108. Title Insurance	to Counsellor Title Insurance Agency, LLC	1,854.80	
(includes above items No:)			
1109. Lender's Policy	NONE		
1110. Owner's Policy	886,000.00 - 1,854.80		
1111.			
1112.			
1113.			
1200. GOVERNMENT RECORDING AND TRANSFER CHARGES			
1201. Recording Fees Deed \$ 15.00	Mortgage \$	Release \$	15.00
1202. City/County tax/stamps	Deed \$	Mortgage \$	
1203. City/County/State tax/stamps	Deed \$ 3,278.20	Mortgage \$	3,278.20
1204. Transfer Fee	Deed \$	Mortgage \$	
1205. Death Certificate Rec. Fee	to Beaufort County Register of Deeds		25.00
1300. ADDITIONAL SETTLEMENT CHARGES			
1301. Survey	to Surveying Consultants	7,150.00	
1302. Phase I ESA	to Newdick Environmental Inc.	3,914.00	
1303. Easement Termination	to Beaufort County Register of Deeds	25.00	
1304. E-Recording Fees	to Burr & Forman LLP	10.00	5.00
1400. TOTAL SETTLEMENT CHARGES (enter on lines 103, Section I and 502, Section S)		20,109.80	3,308.20

I have carefully reviewed the HUD-1 Settlement Statement and to the best of my knowledge and belief, it is a true and accurate statement of all receipts and disbursements made on my account or by me in this transaction. I further certify that I have received a copy of the HUD-1 Settlement Statement.

Beaufort County School District


Beaufort County School District

WARNING: IT IS A CRIME TO KNOWINGLY MAKE FALSE STATEMENTS TO THE UNITED STATES ON THIS OR ANY SIMILAR FORM. PENALTIES UPON CONVICTION MAY INCLUDE A FINE AND IMPRISONMENT. FOR DETAILS SEE TITLE 18 U.S. CODE SECTION 1001 AND SECTION 1010.

The HUD-1 Settlement Statement which I have prepared is a true and accurate account of this transaction. I have caused or will cause the funds to be disbursed in accordance with this statement.

SETTLEMENT AGENT: _____ DATE: _____

I. SETTLEMENT CHARGES		PAID FROM BORROWER'S FUNDS AT SETTLEMENT	PAID FROM SELLER'S FUNDS AT SETTLEMENT
700. TOTAL SALES/BROKER'S COMMISSION based on price \$885,000.00 @ 0.000 =			
Division of commission (line 700) as follows:			
701.	\$ to		
702.	\$ to		
703. Commission paid at Settlement			
800. ITEMS PAYABLE IN CONNECTION WITH LOAN			
801.	Loan Origination Fee %		
802.	Loan Discount %		
803.	Appraisal Fee		
804.	Credit Report		
805.			
806.			
807.			
808.			
809.			
810.			
811.			
900. ITEMS REQUIRED BY LENDER TO BE PAID IN ADVANCE			
901.	Interest From to @ \$ /day		
902.	Mortgage Insurance Premium for 0 mont to		
903.	Hazard Insurance Premium for 0 mont to		
904.			
905.			
1000. RESERVES DEPOSITED WITH LENDER FOR			
1001.	Hazard Insurance mo. @ \$ /mo		
1002.	Mortgage Insurance mo. @ \$ /mo		
1003.	City Property Tax mo. @ \$ /mo		
1004.	County Property Tax mo. @ \$ /mo		
1005.	Annual Assessments mo. @ \$ /mo		
1009.	Aggregate Analysis Adjustment		
1100. TITLE CHARGES			
1101.	Settlement or Closing Fee		
1102.	Abstract or Title Search to Burr & Forman LLP	250.00	
1103.	Final Update to Burr & Forman LLP	50.00	
1104.	Title Insurance Binder to Counsellor Title Insurance Agency, LLC	250.00	
1105.	Closing Protection Letter		
1106.	UPS, Copies, Courier to Burr & Forman LLP	75.00	
1107.	Attorney's fees to Burr & Forman LLP	6,500.00	
(includes above items No:)			
1108.	Title Insurance to Counsellor Title Insurance Agency, LLC	1,864.80	
(includes above items No:)			
1109.	Lender's Policy NONE		
1110.	Owner's Policy 885,000.00 - 1,864.80		
1111.			
1112.			
1113.			
1200. GOVERNMENT RECORDING AND TRANSFER CHARGES			
1201.	Recording Fees Deed \$ 15.00 ; Mortgage \$; Release \$	15.00	
1202.	City/County tax/stamps Deed \$; Mortgage \$		
1203.	City/County/State tax/stamps Deed \$ 3,278.20 ; Mortgage \$		3,278.20
1204.	Transfer Fee Deed \$; Mortgage \$		
1205.	Death Certificate Rec. Fee to Beaufort County Register of Deeds		25.00
1300. ADDITIONAL SETTLEMENT CHARGES			
1301.	Survey to Surveying Consultants	7,150.00	
1302.	Phase I ESA to Newkirk Environmental Inc.	3,914.00	
1303.	Easement Termination to Beaufort County Register of Deeds	25.00	
1304.	E-Recording Fees to Burr & Forman LLP	10.00	5.00
1400. TOTAL SETTLEMENT CHARGES (enter on lines 103, Section J and 502, Section K)		20,103.80	3,308.20

I have carefully reviewed the HUD-1 Settlement Statement and to the best of my knowledge and belief, it is a true and accurate statement of all receipts and disbursements made on my account or by me in this transaction. I further certify that I have received a copy of the HUD-1 Settlement Statement.

Beaufort County School District

By: Dr. Frank Rodriguez, Superintendent

Christine Nieser

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The HUD-1 Settlement Statement which I have prepared is a true and accurate account of this transaction. I have caused or will cause the funds to be disbursed in accordance with this statement.

SETTLEMENT AGENT:

DATE:

10/31/22

A. Settlement Statement

U.S. Department of Housing and Urban Development
OMB Approval No. 2502-0265

B. Type of Loan

1. ☐ FHA	2. ☐ FmHA	3. ☐ Conv. Unins.	6. File Number	7. Loan Number	8. Mortgage Insurance Case Number
4. ☐ VA	5. ☐ Conv. Ins.	2000416.0000181SMB			
C. Note: This loan is furnished to give you a statement of actual settlement costs. Amounts due to and by the settlement agent are shown. Items marked "(p.o.c.)" were paid outside the closing. They are shown here for information purposes and are not included in the totals. WARNING: It is a crime to knowingly make false statements in the United States on this or any other similar form. Penalties upon conviction can include a fine and imprisonment. For details see: Title 18 U. S. Code Section 1001 and Section 1010.					TitleExpress Settlement System Printed 10/27/2022 at 14:44 SMB
D. NAME OF BORROWER: Beaufort County School District					
ADDRESS: PO Drawer 309, Beaufort, SC 29901					
E. NAME OF SELLER: Christine Niesar					
ADDRESS: 1105 Bluffton Parkway, Bluffton, SC 29910					
F. NAME OF LENDER:					
ADDRESS:					
G. PROPERTY ADDRESS: 1105 Bluffton Pkwy, Bluffton, SC 29910					
R600 029 000 0034 0000 and R600 029 000 011A 0000					
H. SETTLEMENT AGENT: Burr & Forman LLP					
PLACE OF SETTLEMENT: 4 Clarks Summit Drive, Suite 200, Bluffton, SC 29910					
I. SETTLEMENT DATE: 10/31/2022					
J. SUMMARY OF BORROWER'S TRANSACTION:			K. SUMMARY OF SELLER'S TRANSACTION:		
100. GROSS AMOUNT DUE FROM BORROWER			400. GROSS AMOUNT DUE TO SELLER		
101. Contract sales price			401. Contract sales price		
886,000.00			886,000.00		

BURR & FORMAN LLP
results matter

Sarah F. Robertson
srobertson@burr.com

Burr & Forman LLP
The Plaza at Belfair
4 Clarks Summit Drive, Suite 200
Bluffton, SC 29910

Mailing Address:
Post Office Drawer 8
Hilton Head Island, SC 29938

Office 843.815.2171
Fax 843.815.5991

BURR.COM

November 7, 2022

VIA US MAIL & EMAIL: (wendy.cartledge@beaufort.k12.sc.us)

Wendy Cartledge, Attorney at Law
Beaufort County School District
PO Drawer 309
Beaufort, SC 29901

RE: BCSD Purchase of 1105 Bluffton Pkwy, Bluffton, SC 29910 from Christine Niesar

Dear Wendy:

As you are aware, I am pleased to confirm that Beaufort County School District's purchase of 1105 Bluffton Pkwy (R600 029 000 0034 0000 and R600 029 000 011A 0000) has closed and all disbursements have been made. The original deed has been electronically recorded with Beaufort County. A copy is enclosed and the original will be forwarded to you, along with the title insurance owners policy. Please do not be concerned if there is a four to five month delay because the processing of the deed after it is recorded frequently takes that much time.

I have enclosed a copy of the closing documents for your records along with a memorandum regarding real property taxes in Beaufort County. Please read this carefully for future reference. As you recall, BCSD was given a credit for the Seller's portion of taxes from January 1st through the date of closing. Please note that the Beaufort County tax bills were not available at time of closing but are now due and payable. Please find a copy of the printout from the Treasurer's website and remit your payment directly to the Treasurer's office.

Property owners in Beaufort County, South Carolina may register at no charge to receive alerts from Beaufort County Register of Deeds regarding possible fraudulent activity involving their property. The sign up page for Beaufort County can be found at www.beaufortcountysc.gov/register-of-deeds/. Your real property is one of your most significant assets. With a few clicks, you can set up a fraud alert notice to protect your investment. If any documents involving your property are recorded, you will receive an email message notifying you of the activity. I encourage you to take advantage of this free service.

SETTLEMENT STATEMENT

File Number: 2000/416.0000181

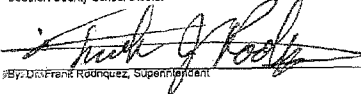
PAGE 2

TitleExpress Settlement System, Printed 10/27/2022 at 14:44 SMD

L. SETTLEMENT CHARGES		PAID FROM BORROWER'S FUNDS AT SETTLEMENT	PAID FROM SELLER'S FUNDS AT SETTLEMENT
700. TOTAL SALES/BROKER'S COMMISSION based on price \$886,000.00 @ 0.000 =			
Division of commission (line 700) as follows:			
701. \$	to		
702. \$	to		
703. Commission paid at Settlement			
800. ITEMS PAYABLE IN CONNECTION WITH LOAN			
801. Loan Origination Fee	%		
802. Loan Discount	%		
803. Appraisal Fee			
804. Credit Report			
805.			
806.			
807.			
808.			
809.			
810.			
811.			
900. ITEMS REQUIRED BY LENDER TO BE PAID IN ADVANCE			
901. Interest From	to @ \$ /day		
902. Mortgage Insurance Premium for	0 mont to		
903. Hazard Insurance Premium for	0 mont to		
904.			
905.			
1000. RESERVES DEPOSITED WITH LENDER FOR			
1001. Hazard Insurance	mo. @ \$ /mo		
1002. Mortgage Insurance	mo. @ \$ /mo		
1003. City Property Tax	mo. @ \$ /mo		
1004. County Property Tax	mo. @ \$ /mo		
1005. Annual Assessments	mo. @ \$ /mo		
1009. Aggregate Analysis Adjustment			
1100. TITLE CHARGES			
1101. Settlement or Closing Fee			
1102. Abstract or Title Search	to Burr & Forman LLP	250.00	
1103. Final Update	to Burr & Forman LLP	50.00	
1104. Title Insurance Binder	to Counsellor Title Insurance Agency, LLC	250.00	
1105. Closing Protection Letter			
1106. UPS, Copies, Courier	to Burr & Forman LLP	75.00	
1107. Attorney's fees	to Burr & Forman LLP	6,500.00	
(includes above items No:)			
1108. Title Insurance	to Counsellor Title Insurance Agency, LLC	1,864.80	
(includes above items No:)			
1109. Lender's Policy	NONE		
1110. Owner's Policy	886,000.00 - 1,864.80		
1111.			
1112.			
1113.			
1200. GOVERNMENT RECORDING AND TRANSFER CHARGES			
1201. Recording Fees Deed \$ 15.00 ; Mortgage \$; Release \$		15.00	
1202. City/County tax/stamps Deed \$; Mortgage \$			
1203. City/County/State tax/stamps Deed \$ 3,278.20 ; Mortgage \$			3,278.20
1204. Transfer Fee Deed \$; Mortgage \$			
1205. Death Certificate Rec. Fee to Beaufort County Register of Deeds			25.00
1300. ADDITIONAL SETTLEMENT CHARGES			
1301. Survey to Surveying Consultants		7,150.00	
1302. Phase I ESA to Newkirk Environmental Inc.		3,914.00	
1303. Easement Termination to Beaufort County Register of Deeds		25.00	
1304. E-Recording Fees to Burr & Forman LLP		10.00	5.00
1400. TOTAL SETTLEMENT CHARGES (enter on lines 103, Section J and 502, Section K)		20,103.80	3,308.20

I have carefully reviewed the HUD-1 Settlement Statement and to the best of my knowledge and belief, it is a true and accurate statement of all receipts and disbursements made on my account or by me in this transaction. I further certify that I have received a copy of the HUD-1 Settlement Statement.

Beaufort County School District



Dr. Frank Rodriguez, Superintendent

Christina Nieser

L. SETTLEMENT CHARGES		PAID FROM BORROWER'S FUNDS AT SETTLEMENT	PAID FROM SELLER'S FUNDS AT SETTLEMENT
700. TOTAL SALES/BROKER'S COMMISSION based on price \$886,000.00 @ 0.000 =			
Division of commission (line 700) as follows:			
701. \$	to		
702. \$	to		
703. Commission paid at Settlement			
800. ITEMS PAYABLE IN CONNECTION WITH LOAN			
801. Loan Origination Fee	%		
802. Loan Discount	%		
803. Appraisal Fee			
804. Credit Report			
805.			
806.			
807.			
808.			
809.			
810.			
811.			
900. ITEMS REQUIRED BY LENDER TO BE PAID IN ADVANCE			
901. Interest From	to @ \$ /day		
902. Mortgage Insurance Premium for	0 mont to		
903. Hazard Insurance Premium for	0 mont to		
904.			
905.			
1000. RESERVES DEPOSITED WITH LENDER FOR			
1001. Hazard Insurance	mo. @ \$ /mo		
1002. Mortgage Insurance	mo. @ \$ /mo		
1003. City Property Tax	mo. @ \$ /mo		
1004. County Property Tax	mo. @ \$ /mo		
1005. Annual Assessments	mo. @ \$ /mo		
1009. Aggregate Analysis Adjustment			
1100. TITLE CHARGES			
1101. Settlement or Closing Fee			
1102. Abstract or Title Search	to Burr & Forman LLP	250.00	
1103. Final Update	to Burr & Forman LLP	50.00	
1104. Title Insurance Binder	to Counsellor Title Insurance Agency, LLC	250.00	
1105. Closing Protection Letter			
1106. UPS Copies, Courier	to Burr & Forman LLP	75.00	
1107. Attorney's fees	to Burr & Forman LLP	6,500.00	
(includes above items No:			
1108. Title insurance	to Counsellor Title Insurance Agency, LLC	1,864.80	
(includes above items No:			
1109. Lender's Policy	NONE		
1110. Owner's Policy	886,000.00 - 1,854.80		
1111.			
1112.			
1113.			
1200. GOVERNMENT RECORDING AND TRANSFER CHARGES			
1201. Recording Fees Deed \$ 15.00	Mortgage \$ Release \$	15.00	
1202. City/County tax/stamps	Deed \$ Mortgage \$		
1203. City/County/State tax/stamps	Deed \$ 3,278.20 Mortgage \$		3,278.20
1204. Transfer Fee	Deed \$ Mortgage \$		
1205. Death Certificate Rec. Fee	to Beaufort County Register of Deeds		25.00
1300. ADDITIONAL SETTLEMENT CHARGES			
1301. Survey	to Surveying Consultants	7,150.00	
1302. Phase I ESA	to Newdick Environmental Inc.	3,914.00	
1303. Easement Termination	to Beaufort County Register of Deeds	25.00	
1304. E-Recording Fees	to Burr & Forman LLP	10.00	5.00
1400. TOTAL SETTLEMENT CHARGES	(enter on lines 103, Section J and 502, Section F)	20,103.50	3,308.20

I have carefully reviewed the HUD-1 Settlement Statement and to the best of my knowledge and belief, it is a true and accurate statement of all receipts and disbursements made on my account or by me in this transaction. I further certify that I have received a copy of the HUD-1 Settlement Statement.

Beaufort County School District


Signature Name: _____

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The HUD-1 Settlement Statement which I have prepared is a true and accurate account of this transaction. I have caused or will cause the funds to be disbursed in accordance with this statement.

SETTLEMENT AGENT: _____ DATE: _____

L. SETTLEMENT CHARGES		PAID FROM BORROWER'S FUNDS AT SETTLEMENT	PAID FROM SELLER'S FUNDS AT SETTLEMENT
700. TOTAL SALES/BROKER'S COMMISSION based on price \$886,000.00 @ 0.000 =			
Division of commission (line 700) as follows:			
701. \$	to		
702. \$	to		
703. Commission paid at Settlement			
800. ITEMS PAYABLE IN CONNECTION WITH LOAN			
801. Loan Origination Fee	%		
802. Loan Discount	%		
803. Appraisal Fee			
804. Credit Report			
805.			
806.			
807.			
808.			
809.			
810.			
811.			
900. ITEMS REQUIRED BY LENDER TO BE PAID IN ADVANCE			
901. Interest From	to @ \$ /day		
902. Mortgage Insurance Premium for	0 mont to		
903. Hazard Insurance Premium for	0 mont to		
904.			
905.			
1000. RESERVES DEPOSITED WITH LENDER FOR			
1001. Hazard Insurance	mo. @ \$ /mo		
1002. Mortgage Insurance	mo. @ \$ /mo		
1003. City Property Tax	mo. @ \$ /mo		
1004. County Property Tax	mo. @ \$ /mo		
1005. Annual Assessments	mo. @ \$ /mo		
1009. Aggregate Analysis Adjustment			
1100. TITLE CHARGES			
1101. Settlement or Closing Fee			
1102. Abstract or Title Search	to Burr & Forman LLP	250.00	
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1106. UPS, Copies, Courier	to Burr & Forman LLP	75.00	
1107. Attorney's fees	to Burr & Forman LLP	6,500.00	
(includes above items No:	)		
1108. Title Insurance	to Counsellor Title Insurance Agency, LLC	1,864.80	
(includes above items No:	)		
1109. Lender's Policy	NONE		
1110. Owner's Policy	886,000.00 - 1,864.80		
1111.			
1112.			
1113.			
1200. GOVERNMENT RECORDING AND TRANSFER CHARGES			
1201. Recording Fees Deed \$ 15.00 ; Mortgage \$; Release \$		15.00	
1202. City/County tax/stamps	Deed \$; Mortgage \$		3,278.20
1203. City/County/State tax/stamps	Deed \$ 3,278.20 ; Mortgage \$		
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1300. ADDITIONAL SETTLEMENT CHARGES			
1301. Survey	to Surveying Consultants	7,150.00	
1302. Phase I ESA	to Newkirk Environmental Inc.	3,914.00	
1303. Easement Termination	to Beaufort County Register of Deeds	25.00	
1304. E-Recording Fees	to Burr & Forman LLP	10.00	5.00
1400. TOTAL SETTLEMENT CHARGES	(enter on lines 103, Section J and 502, Section K) HUD CERTIFICATION OF BUYER AND SELLER	20,103.80	3,308.20

I have carefully reviewed the HUD-1 Settlement Statement and to the best of my knowledge and belief, it is a true and accurate statement of all receipts and disbursements made on my account or by me in this transaction. I further certify that I have received a copy of the HUD-1 Settlement Statement.

Beaufort County School District

By: Dr. Frank Rodriguez, Superintendent

Christine Nieser

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The HUD-1 Settlement Statement which I have prepared is a true and accurate account of this transaction. I have caused or will cause the funds to be disbursed in accordance with this statement.

SETTLEMENT AGENT:

DATE 10/31/20

A. Settlement Statement

U.S. Department of Housing and Urban Development
OMB Approval No. 2502-0265

B. Type of Loan

1. ☐ FHA	2. ☐ FmHA	3. ☐ Conv. Unins.	6. File Number 2000416.00001815M8	7. Loan Number	8. Mortgage Insurance Case Number
4. ☐ VA	5. ☐ Conv. Ins.				
C. Note: This form is furnished to give you a statement of actual settlement costs. Amounts paid to and by the settlement agent are shown. Items marked "(p.o.c.)" were paid outside the closing. They are shown here for information purposes and are not included in the totals. WARNING: It is a crime to knowingly make false statements to the United States on this or any other similar form. Penalties upon conviction can include a fine and imprisonment. For details see: Title 18 U. S. Code Section 1001 and Section 1010.					TitleExpress Settlement System Printed 10/27/2022 at 14:44 5MB
D. NAME OF BORROWER: Beaufort County School District ADDRESS: PO Drawer 309, Beaufort, SC 29901					
E. NAME OF SELLER: Christine Niesar ADDRESS: 1105 Bluffton Parkway, Bluffton, SC 29910					
F. NAME OF LENDER: ADDRESS:					
G. PROPERTY ADDRESS: 1105 Bluffton Pkwy, Bluffton, SC 29910 R600 029 000 0034 0000 and R600 029 000 011A 0000					
H. SETTLEMENT AGENT: Burr & Forman LLP PLACE OF SETTLEMENT: 4 Clarks Summit Drive, Suite 200, Bluffton, SC 29910					
I. SETTLEMENT DATE: 10/31/2022					
J. SUMMARY OF BORROWER'S TRANSACTION:			K. SUMMARY OF SELLER'S TRANSACTION:		
100. GROSS AMOUNT DUE FROM BORROWER			400. GROSS AMOUNT DUE TO SELLER		
101. Contract sales price	886,000.00		401. Contract sales price	886,000.00	
102. Personal property			402. Personal property		
103. Settlement charges to borrower (line 1400)	20,103.80		403.		
104.			404.		
105.			405.		
Adjustments for items paid by seller in advance			Adjustments for items paid by seller in advance		
106. City/town taxes			406. City/town taxes		
107. County taxes			407. County taxes		
108. Assessments			408. Assessments		
109.			409.		
110.			410.		
111.			411.		
112.			412.		
120. GROSS AMOUNT DUE FROM BORROWER	906,103.80		420. GROSS AMOUNT DUE TO SELLER	886,000.00	
200. AMOUNTS PAID BY OR ON BEHALF OF BORROWER			500. REDUCTIONS IN AMOUNT DUE TO SELLER		
201. Deposit or earnest money	86,000.00		501. Excess Deposit (see instructions)		
202. Principal amount of new loans			502. Settlement charges to seller (line 1400)	3,308.20	
203. Existing loan(s) taken subject to			503. Existing loan(s) taken subject to		
204.			504. Payoff of first mortgage loan		
205.			505. Payoff of second mortgage loan		
206.			506.		
207.			507.		
208.			508.		
209.			509.		
Adjustments for items unpaid by seller			Adjustments for items unpaid by seller		
210. City/town taxes			510. City/town taxes		
211. County taxes 01/01/22 to 10/31/22	56.69		511. County taxes 01/01/22 to 10/31/22	56.69	
212. Assessments			512. Assessments		
213. County Taxes (0034) 01/01/22 to 10/31/22	1,361.80		513. County Taxes (0034) 01/01/22 to 10/31/22	1,361.80	
214.			514.		
215.			515.		
216.			516.		
217.			517.		
218.			518.		
219.			519.		
220. TOTAL PAID BY/FOR BORROWER	87,418.49		520. TOTAL REDUCTION AMOUNT DUE SELLER	4,726.69	
300. CASH AT SETTLEMENT FROM OR TO BORROWER			600. CASH AT SETTLEMENT TO OR FROM SELLER		
301. Gross amount due from borrower (line 120)	906,103.80		601. Gross amount due to seller (line 420)	886,000.00	
302. Less amounts paid by/for borrower (line 220)	87,418.49		602. Less reduction amount due seller (line 520)	4,726.69	
303. CASH FROM BORROWER	818,685.31		603. CASH TO SELLER	881,273.31	

SUBSTITUTE FORM 1099 SELLER STATEMENT: The information contained herein is important tax information and is being furnished to the Internal Revenue Service. If you are required to file a return, a negligence penalty or other sanction will be imposed on you if this item is required to be reported and the IRS determines that it has not been reported. The Contract Sales Price described on line 401 above constitutes the Gross Proceeds of this transaction.

SELLER'S INSTRUCTIONS: If this real estate was your principal residence, file Form 2119, Sale or Exchange of Principal Residence, for any gain, with your income tax return; for other transactions, complete the applicable parts of Form 4797, Form 8282 and/or Schedule D (Form 1040).

You are required by law to provide Burr & Forman LLP

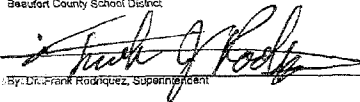
If you do not provide your correct taxpayer identification number, you may be subject to civil or criminal penalties imposed by law, and Under penalties of perjury, I certify that the number shown on this statement is my correct taxpayer identification number.

TIN: SELLER 1 SELLER 2 SELLER(S) SIGNATURE(S): SELLER 1 SELLER 2

L. SETTLEMENT CHARGES		PAID FROM BORROWER'S FUNDS AT SETTLEMENT	PAID FROM SELLER'S FUNDS AT SETTLEMENT
700. TOTAL SALES/BROKER'S COMMISSION based on price \$885,000.00 @ 0.000 =			
Division of commission (line 700) as follows:			
701. \$	to		
702. \$	to		
703. Commission paid at Settlement			
800. ITEMS PAYABLE IN CONNECTION WITH LOAN			
801. Loan Origination Fee	%		
802. Loan Discount	%		
803. Appraisal Fee			
804. Credit Report			
805.			
806.			
807.			
808.			
809.			
810.			
811.			
900. ITEMS REQUIRED BY LENDER TO BE PAID IN ADVANCE			
901. Interest From	to @ \$ /day		
902. Mortgage Insurance Premium for	0 mont to		
903. Hazard Insurance Premium for	0 mont to		
904.			
905.			
1000. RESERVES DEPOSITED WITH LENDER FOR			
1001. Hazard Insurance	mo. @ \$ /mo		
1002. Mortgage Insurance	mo. @ \$ /mo		
1003. City Property Tax	mo. @ \$ /mo		
1004. County Property Tax	mo. @ \$ /mo		
1005. Annual Assessments	mo. @ \$ /mo		
1009. Aggregate Analysis Adjustment			
1100. TITLE CHARGES			
1101. Settlement or Closing Fee			
1102. Abstract or Title Search	to Burr & Forman LLP	250.00	
1103. Final Update	to Burr & Forman LLP	50.00	
1104. Title Insurance Binder	to Counsellor Title Insurance Agency, LLC	250.00	
1105. Closing Protection Letter			
1106. UPS Copies, Courier	to Burr & Forman LLP	75.00	
1107. Attorney's fees	to Burr & Forman LLP	6,500.00	
(includes above items No:)			
1108. Title Insurance	to Counsellor Title Insurance Agency, LLC	1,864.80	
(includes above items No:)			
1109. Lender's Policy	NONE		
1110. Owner's Policy	885,000.00 - 1,864.80		
1111.			
1112.			
1113.			
1200. GOVERNMENT RECORDING AND TRANSFER CHARGES			
1201. Recording Fees Deed \$ 15.00 ; Mortgage \$; Release \$		15.00	
1202. City/County tax/stamps	Deed \$; Mortgage \$		
1203. City/County/State tax/stamps	Deed \$ 3,278.20 ; Mortgage \$		3,278.20
1204. Transfer Fee	Deed \$; Mortgage \$		
1205. Death Certificate Rec. Fee	to Beaufort County Register of Deeds		25.00
1300. ADDITIONAL SETTLEMENT CHARGES			
1301. Survey	to Surveying Consultants	7,150.00	
1302. Phase I ESA	to Newkirk Environmental Inc.	3,914.00	
1303. Easement Termination	to Beaufort County Register of Deeds	25.00	
1304. E-Recording Fees	to Burr & Forman LLP	10.00	5.00
1400. TOTAL SETTLEMENT CHARGES (enter on lines 103, Section J and 502, Section K)		20,103.80	3,308.20

I have carefully reviewed the HUD-1 Settlement Statement and to the best of my knowledge and belief, it is a true and accurate statement of all receipts and disbursements made on my account or by me in this transaction. I further certify that I have received a copy of the HUD-1 Settlement Statement.

Beaufort County School District



By: Dr. Frank Rodriguez, Superintendent

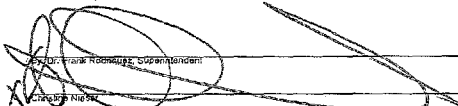
Christine Niesar

TitleExpress Settlement System Printed 10/27/2022 at 14:44 SMB

I. SETTLEMENT CHARGES		PAID FROM BORROWER'S FUNDS AT SETTLEMENT	PAID FROM SELLER'S FUNDS AT SETTLEMENT
700. TOTAL SALES/BROKER'S COMMISSION based on price \$886,000.00 @ 0.000 =			
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802. Loan Discount	%		
803. Appraisal Fee			
804. Credit Report			
805.			
806.			
807.			
808.			
809.			
810.			
811.			
900. ITEMS REQUIRED BY LENDER TO BE PAID IN ADVANCE			
901. Interest From	to @ \$ /day		
902. Mortgage Insurance Premium for	0 mont to		
903. Hazard Insurance Premium for	0 mont to		
904.			
905.			
1000. RESERVES DEPOSITED WITH LENDER FOR			
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1002. Mortgage Insurance	mo. @ \$ /mo		
1003. City Property Tax	mo. @ \$ /mo		
1004. County Property Tax	mo. @ \$ /mo		
1005. Annual Assessments	mo. @ \$ /mo		
1009. Aggregate Analysis Adjustment			
1100. TITLE CHARGES			
1101. Settlement or Closing Fee			
1102. Abstract or Title Search	to Burr & Forman LLP	250.00	
1103. Final Update	to Burr & Forman LLP	50.00	
1104. Title Insurance Binder	to Counsellor Title Insurance Agency, LLC	250.00	
1105. Closing Protection Letter			
1106. UPS, Copies, Courier	to Burr & Forman LLP	75.00	
1107. Attorney's Fees	to Burr & Forman LLP	6,500.00	
(includes above items No:)			
1108. Title Insurance	to Counsellor Title Insurance Agency, LLC	1,854.80	
(includes above items No:)			
1109. Lender's Policy	NONE		
1110. Owner's Policy	886,000.00 - 1,854.80		
1111.			
1112.			
1113.			
1200. GOVERNMENT RECORDING AND TRANSFER CHARGES			
1201. Recording Fees Deed \$ 15.00 ; Mortgage \$; Release \$		15.00	
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1204. Transfer Fee Deed \$; Mortgage \$			
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Beaufort County School District


Beaufort County School District

WARNING: IT IS A CRIME TO KNOWINGLY MAKE FALSE STATEMENTS TO THE UNITED STATES ON THIS OR ANY SIMILAR FORM. PENALTIES UPON CONVICTION CAN INCLUDE A FINE AND IMPRISONMENT. FOR DETAILS SEE TITLE 18 U.S. CODE SECTION 1001 AND SECTION 1010.

The HUD-1 Settlement Statement which I have prepared is a true and accurate account of this transaction. I have caused or will cause the funds to be disbursed in accordance with this statement.

SETTLEMENT AGENT: _____ DATE: _____

L. SETTLEMENT CHARGES		PAID FROM BORROWER'S FUNDS AT SETTLEMENT	PAID FROM SELLER'S FUNDS AT SETTLEMENT
700. TOTAL SALES/BROKER'S COMMISSION based on price \$886,000.00 @ 0.000 =			
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801. Loan Origination Fee	%		
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900. ITEMS REQUIRED BY LENDER TO BE PAID IN ADVANCE			
901. Interest From	to @ \$ /day		
902. Mortgage Insurance Premium for	0 mont to		
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1000. RESERVES DEPOSITED WITH LENDER FOR			
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1100. TITLE CHARGES			
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1107. Attorney's fees	to Burr & Forman LLP	6,500.00	
(includes above items No:)			
1108. Title Insurance	to Counsellor Title Insurance Agency, LLC	1,864.80	
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1304. E-Recording Fees to Burr & Forman LLP		10.00	5.00
1400. TOTAL SETTLEMENT CHARGES (enter on lines 103, Section J and 502, Section K)		20,103.80	3,308.20
HUD CERTIFICATION OF BUYER AND SELLER			

I have carefully reviewed the HUD-1 Settlement Statement and to the best of my knowledge and belief, it is a true and accurate statement of all receipts and disbursements made on my account or by me in this transaction. I further certify that I have received a copy of the HUD-1 Settlement Statement.

Beaufort County School District

By: Dr. Frank Rodriguez, Superintendent

Christina Nieser

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The HUD-1 Settlement Statement which I have prepared is a true and accurate account of this transaction. I have caused or will cause the funds to be disbursed in accordance with this statement.

SETTLEMENT AGENT:

DATE: 10/31/22

Exhibit I



December 20, 2022

Via Hand Delivery

Ms. Ebony Sanders
Beaufort County Tax Assessor
100 Ribaut Road #165
Beaufort, South Carolina 29902

Re: Request for revision of 2022 Property Tax Bill
Property ID R600 029 000 0034 0000
1105 Bluffton Pkwy, Bluffton, SC

Dear Ms. Ebony Sanders:

Please find enclosed a copy of the 2022 Property Tax Bill for the above-referenced property. On October 31, 2022, the Beaufort County School District ("BCSD") purchased this property. A copy of the deed and the HUD-1 Settlement Statement are enclosed for your review. The BCSD also purchased R600 029 000 011A 0000. We have received instructions from the closing attorney that the tax bill needs to be amended to reflect that the BCSD is the owner of the property and that the property is tax exempt effective the date of closing, October 31, 2022. The BCSD has applied for tax exempt status and a copy of the application status is enclosed for your review.

The BCSD would like to pay this 2022 Property Tax Bill as soon as possible. Please advise us if you need further information. Thank you for your assistance.

Sincerely,

A handwritten signature in cursive script that reads "Wendy B. Cartledge".

Wendy B. Cartledge
General Counsel

cc: Louis Ackerman

NOTICE TO PURCHASER
RE: BEAUFORT COUNTY AD VALOREM TAXES

PURCHASER: Beaufort County School District

PROPERTY: 1105 Bluffton Pkwy, Bluffton, SC 29910

As is the case with all local governments (counties) in the State of South Carolina, Beaufort County operates on a retroactive collection of ad valorem taxes, i.e., the current year tax bills are issued near the end of the tax year. In fact, S.C. Law requires tax bills to be mailed by September 30. However, the date is subject to change to a later date, if an extension is requested by the county auditor.

As a courtesy, all property transfers occurring **prior** to September 15, 2022, will be addressed by the County to the January 1, 2022, owner of record c/o the new owner at the new owner's address of deed. All property transfers occurring **after** September 15, 2022, will be sent to the January 1, 2022, owner of record as prescribed by S.C. Law. If you need to change your address, you should send a notice directly to the Beaufort County Tax Assessor, P.O. Box 458, Beaufort, SC 29901. We would therefore appreciate your reading and signing the disclaimer below.

BURR & FORMAN LLP

By: 
Closing Attorney

CREDIT ON SETTLEMENT STATEMENT

We acknowledge our understanding that the seller has been debited at closing the seller's share of taxes for the current tax year from January 1 to date of closing as indicated on Line 211/511 of the Settlement Statement, and that we are now responsible for payment of ad valorem taxes for the current tax year. If 2022 taxes are being paid at closing, funds have also been paid by us for our share, as shown on Line 107 of the Settlement Statement.

TAX BILL

We acknowledge that should we not receive a tax bill related to the captioned real property by November 30, 2022, it will be our responsibility to contact the Beaufort County Treasurer's Office at (843) 255-2600 to request the same. You may also access tax information and pay your taxes on-line at www.co.beaufort.sc.us. Escrow of taxes by our mortgage holder does not relieve us of the responsibility to confirm that all relevant county taxes have been paid. We authorize BURR & FORMAN LLP to use the funds collected on the Settlement Statement to pay the tax bill.

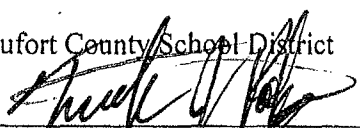
DELINQUENCY

Taxes are delinquent as of January 15, 2023, and penalties are applied. If taxes are unpaid as of August 31, 2023, the property will be advertised and subsequently sold on the first Monday in October of 2023.

PRIMARY RESIDENCE

We understand that if we occupy the captioned property as of January 1 of the tax year as our primary place of residence, we may be entitled to a 4% assessment ratio by application to the Beaufort County Tax Assessor. (For details please contact the County Assessor at (843) 255-2400.) (NOTE: You may qualify for a further benefit as a primary residence owner and senior citizen, i.e. 65 or older under the Homestead Exemption Act.) For further details contact the Beaufort County Auditor at (843) 255-2500. Forms and information are available on-line at the Beaufort County web page: www.co.beaufort.sc.us.

We have received a copy of this disclaimer from BURR & FORMAN LLP.

Beaufort County School District
By: 
Dr. Frank Rodriguez, Superintendent

12623255-3974-1-2-4



BEAUFORT COUNTY TREASURER
PO DRAWER 487
BEAUFORT, SC 29901-0487
ELECTRONIC SERVICE REQUESTED
www.BeaufortCountyTreasurer.com

2022 BEAUFORT COUNTY PROPERTY TAX BILL

Have a question about...

Real property or mobile homes?

Call 843-255-2400 or Assessor@bcgov.net

Business property, Personal property, Homestead or Military exemption?

Call 843-255-2500 or Auditor@bcgov.net

Your payment?

Call 843-255-2600 or www.BeaufortCountyTreasurer.com

12623255 8706-PTN 3974 1 11 2



GEORGE F NIESAR JR OR CHRISTINE NIESAR
1105 BLUFFTON PKWY
BLUFFTON SC 29910-5170



R 600 029 000 0034 0000

Property ID (PIN)		Alternate ID (AIN)
R600 029 000 0034 0000		06092337
Description		Property Class Code
PB50 P32		ResImp SingleFamily
Acres	Assessment Ratio	Tax Authority Group
5.00	4.00%	600-BLUFFTON

Values And Prior Year Information	
Appraised Value	354,400
Capped Value	296,470
Homestead Exemption Value	0
Other Exemption Value	0
Taxable Value	11,860
Prior Year Tax/Fees	1,623.85

Where Your Tax Dollars Go			
The tax amount for each fund listed in the description below is calculated by multiplying the taxable value by the millage rate. This does not apply to "fee" amounts.			
Description	Millage	Taxable Value	Tax/Fee
COUNTY OPERATIONS	0.05390	11,860	639.25
COUNTY DEBT	0.00560	11,860	66.42
RURAL & CRITICAL LANDS	0.00530	11,860	62.86
SCHOOL - OPERATIONS	0.12560	11,860	0.00
SCHOOL - DEBT	0.03630	11,860	430.52
FIRE DISTRICT	0.02710	11,860	321.41
SW Municipal/District Fee			120.00
TOTALS	0.25380	11,860	1,640.46

How Your Taxes Are Calculated	
Taxable Value	11,860
x Millage Rate	0.25380
Tax Amount	3,010.08
- School Tax Credit (Primary Residence Only)	1,489.62
+ Fees	120.00
+ Prior Unpaid Taxes/Fees/Penalties	0.00
- Installment Payments	0.00

TOTAL AMOUNT DUE: \$1,640.46
DUE BY: January 17, 2023

Pay with **no extra fee** when paying by check!

Online: www.myBeaufortCounty.com

Phone: 888-970-0624



2022 BEAUFORT COUNTY PROPERTY TAX BILL

Tax Year	AIN	RevObjID	Property ID (PIN)	Property Address	Total Amount Due
2022	06092337	0006092337	R600 029 000 0034 0000		\$1,640.46

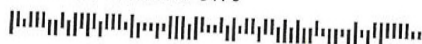
Owner as of January 1, 2022 NIESAR GEORGE F CHRISTINE JTROS

Include on your check your Phone Number, RevObjID and make payable to Beaufort County Treasurer.

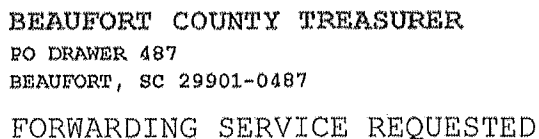
PAYABLE NOW THRU 01/17/2023		\$1,640.46
THEN PENALTIES APPLY...		
IF RECEIVED AFTER 01/17/2023 (3%)		\$1,689.67
IF RECEIVED AFTER 02/01/2023 (10%)		\$1,804.51
IF RECEIVED AFTER 03/16/2023 (15%)		\$1,886.53
IF RECEIVED AFTER 03/31/2023 (\$75)		\$1,961.53
IF RECEIVED AFTER 08/31/2023 (\$25)		\$1,986.53

GEORGE F NIESAR JR OR CHRISTINE NIESAR
1105 BLUFFTON PKWY
BLUFFTON SC 29910-5170

Beaufort County RPA
PO BOX 105176
ATLANTA GA 30348-5176



0006092337000016404600001689670000180451000018865300745



ADJUSTED TAX BILL

BEAUFORT COUNTY SCHOOL DISTRICT
PO BOX 309
BEAUFORT SC 29901

2021 TAX/FEEs:	\$ 67.60
2022 INSTALLMENT PAYMENTS:	\$ 0.00

TAX YEAR	ALT ID	PROPERTY ID	DISTRICT	DESCRIPTION	
2022	01076034	R600 029 000 011A 0000	600-BLUFFTON	1105 BLUFFTON PKWY	
PROPERTY TYPE		PROPERTY CLASS CODE	MORTG ID	RATIO	ACRES
Real Property		AqVac Forest		4.00%	19.100

OUTSTANDING RECAP				
TAX YEAR	TAX DUE	PENALTY	TREASURER FEES	TOTAL
2022	35.29			35.29
PRIOR				0.00
TOTAL	35.29	0.00	0.00	35.29

WHERE YOUR TAX DOLLARS GO

THE TAX AMOUNT FOR EACH FUND LISTED IN THE DESCRIPTION BOX BELOW IS CALCULATED BY MULTIPLYING THE ASSESSED VALUE BY THE MILLAGE RATE. THIS DOES NOT APPLY TO "FEE" CHARGES.

DESCRIPTION	MILLAGE	ASSESSED VALUE	TAX/FEE/INT
SCHOOL - OPERATIONS	0.12560	0	0.60
SW Municipal/District Fee		0	35.29
TOTALS	0.25380		35.29

VALUE INFORMATION	
SEE BACK OF NOTICE FOR DEFINITION OF THE ACCOUNT ITEMS LISTED BELOW	
MARKET VALUE	660,900
TAXABLE VALUE	280,642
SPECIAL TAX ASSESSMENT	0
HOMESTEAD EXEMPTION AMOUNT	0
OTHER EXEMPTIONS	130
HOMESTEAD ASSESSED VALUE	0

HOW YOUR TAXES ARE CALCULATED	
(TAXABLE VALUE)	280,642
(HOMESTEAD EXEMPTION) -	0
(OTHER EXEMPTION) -	130
(TAXABLE VALUE LESS EXEMPTIONS)	280,512
(ASSESSMENT RATIO) X	4.00%
(ASSESSED VALUE)	0
(MILLAGE RATE) X	0.25380
(TAX AMOUNT)	0.00
(INSTALLMENT PAYMENTS) -	0.00
(SCHOOL TAX CREDIT SAVINGS-ONLY 4% RESIDENTS) -	0.00
(FEES) +	35.29
(PENALTY/INTEREST) +	
(PRIOR UNPAID TAXES/FEES/PENALTIES) +	0.00
TOTAL AMOUNT DUE	\$35.29

Return this stub with payment
2022 BEAUFORT COUNTY PROPERTY TAX BILL

TAX YEAR	ALT ID	PROPERTY ID	PROPERTY ADDRESS	TOTAL DUE
2022	01076034	R600 029 000 011A 0000	1105 BLUFFTON PKWY	\$35,29

OWNER AS OF JAN 1, 2022: NIESAR GEORGE F CHRISTINE

THIS TAX BILL MAY BE PROCESSED ELECTRONICALLY

PAYABLE NOW THROUGH Jan 17, 2023...	\$35.29
THEN PENALTIES APPLY...	

THERE WILL BE A CHARGE FOR ANY CHECK RETURNED BY THE BANK.

IF RECEIVED AFTER Jan 17, 2023 (3%)	\$36.35
IF RECEIVED AFTER Feb 01, 2023 (10%)	\$38.02
IF RECEIVED AFTER Mar 16, 2023 (15%)	\$40.50
IF RECEIVED AFTER Mar 31, 2023 (\$75)	\$115.50
IF RECEIVED AFTER Aug 31, 2023 (\$25)	\$140.50

SEE REVERSE SIDE FOR FURTHER (PAYMENT & CONTACT) INFORMATION &
PROCEDURES.

INCLUDE YOUR NAME, ADDRESS, PHONE NUMBER AND THE ALT. ID ON YOUR CHECK.
MAKE CHECK PAYABLE AND REMIT TO:

BEAUFORT COUNTY SCHOOL DISTRICT
PO BOX 309
BEAUFORT SC 29901

BEAUFORT COUNTY TREASURER
PROPERTY TAX
PO BOX 105176
ATLANTA, GA 30348-5176

ADJUSTED
TAX BILL

00010760340000003529000000363500000038820000004058

ELECTRONICALLY FILED - 2025 Oct 24 11:38 AM - BEAUFORT - COMMON PLEAS - CASE#2025CP0700873

GLOSSARY OF TERMS

PROPERTY CLASS CODE: The type/use of a property.

MARKET/APPRaised VALUE: The estimated property value before application of any fractional assessment ratio, partial exemption, or other adjustment. Valuation is as of a specific date.

CAPPED VALUE: Limits the increase in value of real property to no greater than 15% during the five-year reassessment cycle.

TAXABLE VALUE: Taxable value is the appraised value minus all applicable partial exemptions. Property taxes are levied on taxable value.

ASSESSMENT RATIO: The assessment ratios are established for each class of property in the State Constitution to ensure stability (4%, 5%, 6% or 10.5%).

MILLAGE RATE: The tax rate applied to the assessed value of a property.

SCHOOL TAX CREDIT: That portion of the millage rate for school operations which is exempted for primary residences assessed at 4%, this does not include taxes levied for school debt.

HOMESTEAD EXEMPTION AMOUNT: A deduction of up to \$50,000 from a property's taxable value for qualified individuals.

HOMESTEAD ASSESSED VALUE: The homestead exemption amount multiplied by the assessment ratio.

RESIDENT EXEMPTION FRAUD

An individual claiming the legal resident (4%) exemption on a property in which he or she is not primarily residing is not entitled to the exemption and may be subject to a significant penalty.

HILTON HEAD ISLAND POLICE SERVICE FEE

The "Hilton Head Island Police Service Fee" (HHPSF) is a fee applied to all Improved Town of Hilton Head Island properties. Waiving of the fee is not permitted. You may appeal the fee amount based on the property's classification and the structure's total square footage.

For more information, please visit www.beaufortcountysc.gov, or you can speak with a Police Fee representative at (843) 255-2440.

For Stormwater Utility Fee questions, please contact Stormwater Administration at (843) 255-2805 or stormwater@bcgov.net. Stormwater Rate Information can be found at www.beaufortcountysc.gov/stormwater.

ASSESSOR'S OFFICE

Assessor's Office Telephone Number: 843 255 2400
Fax Number: 843 255 9404
Email address: assessor@bcgov.net

- Appraises and revalues all real property
 - Keeps records for all real property, including descriptions, ownership, sales, and location
 - Annually certifies the appraised and assessed valuations
 - Administers 4% Primary Resident, Agricultural Use, and other applications
 - Updates and maintains tax maps
- Find additional information or apply for exemptions online at www.beaufortcountysc.gov/assessor or use this QR code:

**AUDITOR'S OFFICE**

Telephone: (843) 255-2500 (Beaufort) Email: auditor@bcgov.net
(843) 255-2506 or (843) 255-2507 (Bluffton)

- Generates and adjusts tax rolls for real property, personal property, motor vehicles and watercraft.
- Processes and maintains Homestead applications and military exemptions.
- **AUDITOR ASSESSED PERSONAL PROPERTY:** Aircraft, Signs, Rentals, Documented Vessels and BPP (Furniture, Fixtures and Equipment). You may appeal the value of your personal property by contacting the Beaufort County Auditor on or before the last day to pay the tax bill timely.
- **DOR ASSESSED PERSONAL PROPERTY:** Corporations, Manufacturers, Merchants, Utilities and Rail Roads. You may appeal the value of your DOR assessed property by contacting the SC Department of Revenue on or before the last day to pay the bill timely.

Appealing of any personal property value does not extend the due date of

TREASURER'S OFFICE

Telephone: (843) 255-2600 Website: www.beaufortcountytreasurer.com
Fax: (843) 255-9489

- Monitors and manages the delinquency process by collecting and distributing current and delinquent taxes, and applying and removing delinquency fees
- Distributes tax collections to municipalities
- Processes and issues tax refunds
- Receives and processes change of address requests
- Utilizes multiple methods to pursue the collection of delinquent taxes, including but not limited to: auction of property, withholding of South Carolina Income Tax refunds, and pursuit through a third-party collections agency. Information about the delinquency timelines may be found online at the Treasurer's Website.

If your check is dishonored or returned for any reason, we will electronically debit your account for the amount of the check plus a processing fee of \$30.00. This may also result in additional fees being incurred from your bank.

If your mobile home ownership changes, or you move your mobile home, please contact Building Codes at (843) 255-2065.

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	FOURTEENTH JUDICIAL CIRCUIT
COUNTY OF BEAUFORT	)	
	)	CASE NO. 2025-CP-07-00873
IN THE MATTER OF:	)	
GEORGE FRANCIS NIESAR	)	
(Decedent)	)	
	)	NOTICE OF AND MOTION
GERALD VIGLIONE NIESAR,	)	TO RECONSIDER
Individually and as Personal Representative	)	FINAL ORDER GRANTING
Of the Estate of Geroqe Francis Niesar,	)	PLAINTIFF’S MOTION FOR
Plaintiff,	)	SUMMARY JUDGMENT
Vs.	)	
	)	
CHRISTINE NEMETH,	)	
Defendant.	)	
_____	)	

TO: ROBERT BRUNSON, ESQ., ATTORNEY FOR THE PLAINTIFF:

YOU WILL PLEASE TAKE NOTICE that Defendant, by and through her undersigned attorney, will move on the _____ day of _____, 2026 at _____ o’clock a.m./p.m. before the Beaufort County Court of Common Pleas, and will at that time ask the Court to reconsider the Final Order Granting Plaintiff’s Motion for Summary Judgment for the following reasons pursuant to SCRCP 59(e);

FACTS

1. The Defendant is the sole heir by will of the Decedent (attachment A).
2. Plaintiff is a creditor of the estate and claims he is owed \$24,000.00 from a loan to the Decedent.
3. The Plaintiff is not an heir of the estate.

ARGUMENT

4. It is an injustice to award the Plaintiff “actual damages of \$443,000.00” on a claim for an

unpaid loan of \$24,000.00.

5. Who does this combined total award of \$559,104.45 go to? According to the Order, directly to the Plaintiff, not to the estate and then back to the Decedent's sole heir, perhaps with some attorney fees (being mindful that this case was initially brought in Federal Court and unceremoniously and informally remanded (attachment B) to Probate Court and then brought here in Circuit Court).

6. Simply put, the Plaintiff was not damaged by more than \$24,000.00 before bringing the same suit in 3 different courts when he could have just made his claim for \$24,000.00 to the Defendant and collected the \$24,000.00 owed to him.

Beaufort County, SC
January 6, 2026

s/Russ Keep, III
Russ Keep, III
S.C. Bar #3321
Post Office Box 5877
Hilton Head Island, SC 29938
(P) 843-842-6268
(F) 843-785-8458
thehhlaw@gmail.com
Attorney for the Defendant/
Christine Nemeth

**LAST WILL AND TESTAMENT
OF
GEORGE FRANCIS NIESAR**

Dated: December 17, 2018

Prepared by:

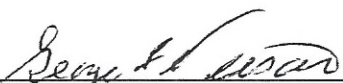
Legal Assistance Office
MCRD Parris Island
27 Atsugi St., Bldg 400
Parris Island, SC 29905
843-228-2559

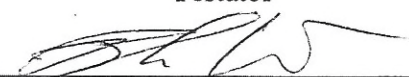
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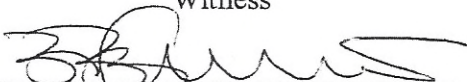
MILITARY TESTAMENTARY INSTRUMENT SELF-PROVING AFFIDAVIT

STATE OF SOUTH CAROLINA, COUNTY OF BEAUFORT

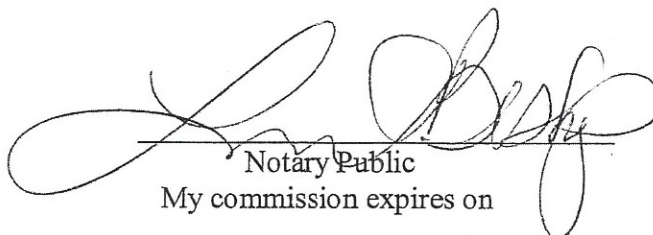
We, the Testator and the witnesses, whose names are signed to the attached or foregoing instrument, being first duly sworn, do hereby declare to the undersigned authority that in the presence of the military legal counsel and the witnesses the Testator, George Francis Niesar, signed and executed the instrument as his military testamentary instrument, that he had signed willingly, and that he executed it as his free and voluntary act and deed for the purposes therein expressed. It is further declared that each of the witnesses, at the request of the Testator, in the presence and hearing of the Testator, the military legal assistance counsel and each other, signed the military testamentary instrument as witness, and that to the best of his or her knowledge the Testator was at the time at least eighteen years of age or emancipated, of sound mind, and under no constraint, duress, fraud or undue influence.


George Francis Niesar
Testator


print: Blake A. Morris
Witness


print: Z. Bennington
Witness

Subscribed, sworn to and acknowledged before me by the said George Francis Niesar, Testator, and subscribed and sworn to before me by the above-named witnesses, this 17th day of December, 2018.


Notary Public
My commission expires on

LISA A. BISHOP
SOUTH CAROLINA
NOTARY PUBLIC
EXP. 14 APR 25



MILITARY TESTAMENTARY PREAMBLE: This is a **MILITARY TESTAMENTARY INSTRUMENT** prepared pursuant to Title 10 United States Code, Section 1044d, and executed by a person authorized to receive legal assistance from the military services. Federal law exempts this document from any requirement of form, formality, or recording that is prescribed for testamentary instruments under the laws of a state, the District of Columbia, or a territory, commonwealth or possession of the United States. Federal law specifies that this document shall be given the same legal effect as a testamentary instrument prepared and executed in accordance with the laws of the jurisdiction in which it is presented for probate. It shall remain valid unless and until the Testator revokes it.

LAST WILL AND TESTAMENT

OF

GEORGE FRANCIS NIESAR

I, George Francis Niesar, a resident of the State of South Carolina, make, publish and declare this to be my Last Will and Testament, revoking all wills and codicils at any time heretofore made by me. I am retired from the military service of the United States.

FIRST: I direct that the expenses of my last illness and funeral, the expenses of the administration of my estate, and all estate, inheritance and similar taxes payable with respect to property included in my estate, whether or not passing under this will, and any interest or penalties thereon, shall be paid out of my residuary estate, without apportionment and with no right of reimbursement from any recipient of any such property.

SECOND: It is my desire that, upon my death, I be cremated and that Christine Nemeth have full authority over my remains. I have not contracted for or paid for any funeral arrangements.

THIRD: I give to my daughter Catherine Heft, if she survives me, the smallest portion of my estate, if any, required to be given to my daughter Catherine Heft under applicable law, after taking into account the aggregate value of any other property passing to them under this will or otherwise. It is my desire and intent that my daughter Catherine Heft be disinherited by me to the fullest extent permitted by law. All provisions of this will, including without limitation any provisions which may refer to "my daughter Catherine Heft" or "issue", and any provisions which may refer to persons taking by intestacy, shall be construed to effectuate such disinheritance of my daughter Catherine Heft.

FOURTH: I give all my real estate, and all rights that I have under any related insurance policies, to my friend Christine Nemeth, if she survives me.

FIFTH: I give all tangible personal property owned by me at the time of my death, including without limitation personal effects, clothing, jewelry, furniture, furnishings, household goods, automobiles and other vehicles, and all rights that I have under any related insurance policies, to my friend Christine Nemeth, if she survives me.

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SIXTH: I give all the rest, residue and remainder of my property and estate, both real and personal, of whatever kind and wherever located, that I own or to which I shall be in any manner entitled at the time of my death (collectively referred to as my "residuary estate"), as follows:

- (a) To that of my friend Christine Nemeth, if she survives me, to Christine Nemeth outright.
- (b) If Christine Nemeth does not survive me, then my residuary estate shall be paid and distributed to my brother Gerald Niesar if he shall survive me. If none of the aforesaid beneficiaries of my residuary estate shall survive me, my residuary estate shall be paid and distributed to my son Eric Niesar if he shall survive me.
- (c) If none of the beneficiaries described in clauses (a) and (b) above shall survive me, then I give my residuary estate to those who would take from me as if I were then to die without a will, unmarried and the absolute owner of my residuary estate, and a resident of the State of South Carolina.

SEVENTH: If any property of my estate vests in absolute ownership in a minor or incompetent, my personal representative, at any time and without court authorization, may: distribute the whole or any part of such property to the beneficiary; or use the whole or any part for the health, education, maintenance and support of the beneficiary; or distribute the whole or any part to a guardian, committee or other legal representative of the beneficiary, or to a custodian for the beneficiary under any gifts to minors or transfers to minors act, or to the person or persons with whom the beneficiary resides. Evidence of any such distribution or the receipt therefor executed by the person to whom the distribution is made shall be a full discharge of my personal representative from any liability with respect thereto, even though my personal representative may be such person. If such beneficiary is a minor, my personal representative may defer the distribution of the whole or any part of such property until the beneficiary attains the age of eighteen (18) years, and may hold the same as a separate fund for the beneficiary with all of the powers described in Article EIGHTH hereof. If the beneficiary dies before attaining said age, any balance shall be paid and distributed to the estate of the beneficiary.

EIGHTH: I appoint my friend Christine Nemeth to be my personal representative. I direct that no personal representative shall be required to file or furnish any bond, surety or other security in any jurisdiction.

NINTH: I grant to my personal representative all powers conferred on personal representatives and executors under the South Carolina Probate Code, as amended, or any successor thereto, and all powers conferred upon personal representatives and executors wherever my personal representative may act. I also grant to my personal representative power to retain, sell at public or private sale, exchange, grant options on, invest and reinvest, and otherwise deal with any kind of property, real or personal, for cash or on credit; to hold, manage, insure, repair, improve, demolish, divide, and otherwise deal with and dispose of any property; to borrow money and mortgage, encumber or pledge any property to secure loans; to pay any legacy or distribute, divide or partition property in cash or in kind, or partly in kind, and to allocate different kinds of

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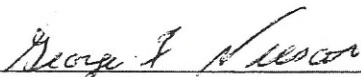


property, disproportionate amounts of property and undivided interests in property among any parts, funds or shares; to determine the fair valuation of property, with or without regard to tax basis; to exercise all powers of an absolute owner of property; to compromise and release claims with or without consideration; and to employ attorneys, accountants and other persons for services or advice. The term "personal representative" wherever used herein shall mean the personal representatives, executors, executor, executrix or administrator in office from time to time.

TENTH: I direct that for purposes of this will a beneficiary shall be deemed to predecease me unless such beneficiary survives me by more than thirty days.

ELEVENTH: I have served in the Armed Forces of the United States. I therefore request that my personal representative make appropriate inquiries to ascertain whether there are any benefits to which I, my dependents or my heirs may be entitled by virtue of any military affiliation. I specifically request that my personal representative consult with a retired affairs officer at the nearest military installation, the Department of Veterans Affairs, and the Social Security Administration.

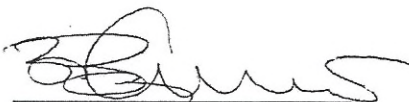
IN WITNESS WHEREOF, I, George Francis Niesar, sign my name and publish and declare this instrument as my last will and testament this 17th day of December, 2018.


George Francis Niesar

The foregoing instrument was signed, published and declared by George Francis Niesar, the above-named Testator, to be his last will and testament in our presence, all being present at the same time, and we, at his request and in his presence and in the presence of each other, have subscribed our names as witnesses on the date above written.



Print: Blake A. Morris
having an address at:
Depot Law Center
Parris Island, South Carolina 29905



Print: Z. Bennington
having an address at:
Depot Law Center
Parris Island, South Carolina 29905



UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH CAROLINA

Post Office Box 835
Charleston, South Carolina 29402

DAVID C. NORTON
UNITED STATES DISTRICT JUDGE

TELEPHONE (843) 579-1450
FAX (843) 579-1459

October 8, 2024

The Honorable Heather R. Galvin
Beaufort County Probate Court
P.O. Box 1083
Beaufort, South Carolina 29901

Re: Niesar v. Nemeth
C/A No. 9:23-cv-04660-DCN

Dear Judge Galvin:

The above-referenced case was filed in the United States District Court for the District of South Carolina on September 15, 2023. It is closely related to a matter that is currently pending before you in the Beaufort County Probate Court ("Probate Court"). The probate matter is currently stayed pending resolution of the case in federal court. However, based on an argument recently raised for the first time in the federal matter, it seems that it may be appropriate for the Probate Court to proceed with the estate administration process before disposition of the case in federal court.

As you may remember, George Francis Niesar ("George") died on October 7, 2022. At the time of his death, George and his ex-wife, Christine Nemeth ("Nemeth"), co-owned a property in Bluffton, South Carolina (the "Property"). Nemeth, purportedly acting under the authority of George's power of attorney, sold the Property shortly after George's death and retained the proceeds of that sale. Nemeth did not immediately file a will or initiate probate proceedings at that time.

In May 2023, George's brother, Gerald Viglione Niesar ("Gerald"), filed a petition to probate George's Estate, and the Probate Court named Gerald personal representative of George's Estate in In re: George Francis Niesar, Case No. 2023-ES-07-00417. Gerald then filed the federal case on the Estate's behalf on September 15, 2023, in which he asserts various common law tort claims against Nemeth arising out of her sale of the Property and retention of the proceeds from that sale. On October 13, 2023, while both the probate matter and the federal case were pending, Nemeth filed a document in the Probate Court purporting to be George's will. If valid, this purported will devises George's entire Estate to Nemeth. In January 2024, Nemeth filed petitions in the Probate Court to be named as the personal representative of George's Estate and for formal testacy of the purported will. The following month, the Probate Court stayed proceedings pending resolution of the federal case.

One of the causes of action Gerald pursues on the Estate's behalf in federal court is breach of fiduciary duty. In a recent filing, he theorized, for the first time, that Nemeth's allegedly unlawful removal of the Property from the Estate after George's death gave rise to a fiduciary relationship between Nemeth and the Estate. ECF No. 45 at 10. In support of this argument, he cited to the section of the South Carolina Probate Code defining the concept of executor de son tort and an 1889

The Honorable Heather R. Galvin
 October 8, 2024
 Page 2

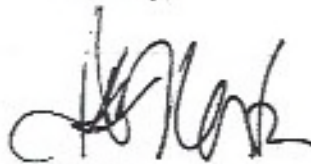
case citing a previous version of that statute. *Id.* (first citing S.C. Code Ann. § 62-3-619; and then citing *Davega v. Henry*, 10 S.E. 72, 74 (S.C. 1889)).

In reviewing the relevant sections of the Probate Code, it appears that only the Probate Court has the authority to hold someone accountable as an executor de son tort. *See* S.C. Code Ann. § 62-3-620 ("Acting sua sponte or upon the petition of any interested person, the probate judge . . . may order the executor de son tort to account for the property in his possession." (emphasis added)); *see also* *Judy v. Judy*, 712 S.E.2d 408, 412-14 (S.C. 2011) (discussing Section 62-3-620 and finding that it confers jurisdiction to the probate court to hear a claim for waste related to the destruction of value of an estate's real property). Indeed, this remedy appears to be interwoven in the estate administration process. *See* S.C. Code Ann. § 62-3-619 ("[T]he value of the property shall be deducted from any distribution or payment of any claim or commission to which the executor de son tort is entitled from the estate."); *accord* *Maryland v. Territory of Md.*, 2017 WL 1807157, at *5 (D. Md. May 5, 2017) (finding that the plaintiffs' claims of executor de son tort fail under Maryland law because the case does not involve the administration of an estate). Moreover, while the federal court has jurisdiction over Gerald's tort claims, jurisdiction over administration of George's Estate rests exclusively with the Probate Court. *See* *Marshall v. Marshall*, 547 U.S. 293, 311-12 (2006). Consequently, if Gerald is entitled to a remedy in this case, the Probate Code appears to envision that he find that remedy in the Probate Court.

Out of respect for the Probate Court's jurisdiction, and in recognition of the limitations of the federal court's jurisdiction, I was hoping you could advise on how you wish to proceed. My proposal is that the Probate Court lift its stay and begin the process of administering George's Estate and that the federal court stay its case pending resolution of the probate matter. It is likely that the conclusion of the Estate administration process will obviate the need for further proceedings in federal court. If it does not, the parties would, of course, be free to return to federal court and litigate any remaining claims. I look forward to hearing how you would prefer to move forward.

With kind regards, I am

Sincerely,



David C. Norton
 United States District Judge

DCN/ess

cc: Robert H. Brunson, Esq.
 Charles Russell Keep, III, Esq.

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	FOURTEENTH JUDICIAL CIRCUIT
COUNTY OF BEAUFORT	)	
	)	CASE NO. 2025-CP-07-00873
IN THE MATTER OF:	)	
GEORGE FRANCIS NIESAR	)	
(Decedent)	)	
	)	
GERALD VIGLIONE NIESAR,	)	AMENDED NOTICE OF AND
Individually and as Personal Representative	)	MOTION TO RECONSIDER
Of the Estate of Geroqe Francis Niesar,	)	FINAL ORDER GRANTING
Plaintiff,	)	PLAINTIFF'S MOTION
Vs.	)	FOR SUMMARY JUDGMENT
	)	
CHRISTINE NEMETH,	)	
Defendant.	)	
_____	)	

TO: ROBERT BRUNSON, ESQ., ATTORNEY FOR THE PLAINTIFF:

YOU WILL PLEASE TAKE NOTICE that Defendant, by and through her undersigned attorney, will move on the _____ day of _____, 2026 at _____ o'clock a.m./p.m. before the Beaufort County Court of Common Pleas, and will at that time ask the Court to reconsider the Final Order Granting Plaintiff's Motion for Summary Judgment for the following reasons pursuant to SCRCP 59(e) and 6(b);

FACTS

1. The Defendant is the sole heir by will of the Decedent (attachment A).
2. Plaintiff is a creditor of the estate and claims he is owed \$24,000.00 from an unsecured loan to the Decedent.
3. The Plaintiff is not an heir of the estate.

CONVERSION

In Plaintiff's Memorandum In Support of Motion for Summary Judgment, Plaintiff "acknowledges that a conversion action "does not lie when alleging the exercise or domain or

control of real property “Hawkins v. City of Greenville, 358 S.C. 280, 297, 594 S.E.2d 557, 566 (Ct. App. 2004)” (attachment A). In this case the Defendant is alleged to have taken “domain and control” of the Decedent’s real estate, not his money. That she later sold George’s house only goes to her “domain and control of real property.”

BREACH OF FIDUCIARY DUTY

As to Plaintiff’s breach of fiduciary duty cause of action, I can certainly do no better than to quote from Judge Norton’s letter dated October 8, 2024 informally remanding the case to Probate Court from the Federal Court (attachment B);

In reviewing the relevant sections of the Probate Code, it appears that only Probate Court has the authority to hold someone accountable as an executor de son tort. See S.C. Code Ann. § 62-3-620 (“Acting sua sponte or upon the petition of an interested person, the probate judge . . . may order the executor de son tort to account for the property in his possession.” (emphasis added)); see also Judy v. Judy, 712 S.E. 408, 412-14 (S.C. 2011) (discussing Section 62-3-620) and finding that it confers jurisdiction to the probate court to hear a claim for waste related to the destruction of value of an estate’s real property). Indeed, this remedy appears to be interwoven in the estate administration process, See S.C. Code Ann. § 62-3-619 (“[T]he value of the property shall be deducted from any distribution or payment of any claim or commission to which the executor de son tort is entitled from the estate.”); accord Maryland v. Territory of Md., 2017 WL 1807157, at *5 (D. Md. May 5, 2017) (finding that the plaintiff’s claims of executor de son tort fell under Maryland law because the case does not involve the administration of an estate). Moreover, while the federal court has jurisdiction over Gerald’s tort claims, jurisdiction over administration of George’s Estate rests exclusively with the Probate Court. See Marshall v. Marshall, 547 U.S. 293, 311-12 (2006). **Consequently, if Gerald is entitled to a remedy in this case, the Probate Code appears to envision that he find the remedy in the Probate Court** (bold added).

OTHER CAUSES OF ACTION

“While the Federal Court has jurisdiction over Gerald’s tort claims¹, jurisdiction over administering of George’s Estate rests exclusively with the Probate Court. See Marshall v. Marshall, 547 U.S. 293, 311-12 (2006)” – Judge Norton.

CONCLUSION

This case was brought in Federal Court, informally remanded to Probate Court and then brought in Circuit Court which also has no jurisdiction according to Judge Norton. The Final Order Granting Plaintiff’s Motion for Summary Judgment dated December 31, 2025 in this case should be vacated and the case dismissed or transferred back to probate court.

Respectfully Submitted,

s/Russ Keep, III
 Russ Keep, III / S.C. Bar #3321
 Post Office Box 5877
 Hilton Head Island, SC 29938
 (P) 843-842-6268
 (F) 843-785-8458
thehhlaw@gmail.com
 Attorney for the Defendant/
 Christine Nemeth

Beaufort County, SC
 January 26, 2025

¹ Providing there is over \$75,000 in controversy which there is not in this case, just a claimed unsecured loan by the Plaintiff to the Decedent of \$24,000.00.



UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH CAROLINA

Post Office Box 835
Charleston, South Carolina 29402

DAVID C. NORTON
UNITED STATES DISTRICT JUDGE

TELEPHONE (843) 579-1450
FAX (843) 579-1459

October 8, 2024

The Honorable Heather R. Galvin
Beaufort County Probate Court
P.O. Box 1083
Beaufort, South Carolina 29901

Re: Niesar v. Nemeth
C/A No. 9:23-cv-04660-DCN

Dear Judge Galvin:

The above-referenced case was filed in the United States District Court for the District of South Carolina on September 15, 2023. It is closely related to a matter that is currently pending before you in the Beaufort County Probate Court ("Probate Court"). The probate matter is currently stayed pending resolution of the case in federal court. However, based on an argument recently raised for the first time in the federal matter, it seems that it may be appropriate for the Probate Court to proceed with the estate administration process before disposition of the case in federal court.

As you may remember, George Francis Niesar ("George") died on October 7, 2022. At the time of his death, George and his ex-wife, Christine Nemeth ("Nemeth"), co-owned a property in Bluffton, South Carolina (the "Property"). Nemeth, purportedly acting under the authority of George's power of attorney, sold the Property shortly after George's death and retained the proceeds of that sale. Nemeth did not immediately file a will or initiate probate proceedings at that time.

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The Honorable Heather R. Galvin
 October 8, 2024
 Page 2

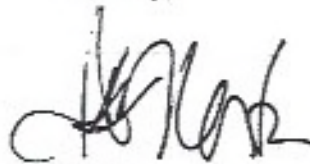
case citing a previous version of that statute. *Id.* (first citing S.C. Code Ann. § 62-3-619; and then citing *Davega v. Henry*, 10 S.E. 72, 74 (S.C. 1889)).

In reviewing the relevant sections of the Probate Code, it appears that only the Probate Court has the authority to hold someone accountable as an executor de son tort. See S.C. Code Ann. § 62-3-620 ("Acting sua sponte or upon the petition of any interested person, the probate judge . . . may order the executor de son tort to account for the property in his possession." (emphasis added)); see also *Judy v. Judy*, 712 S.E.2d 408, 412-14 (S.C. 2011) (discussing Section 62-3-620 and finding that it confers jurisdiction to the probate court to hear a claim for waste related to the destruction of value of an estate's real property). Indeed, this remedy appears to be interwoven in the estate administration process. See S.C. Code Ann. § 62-3-619 ("[T]he value of the property shall be deducted from any distribution or payment of any claim or commission to which the executor de son tort is entitled from the estate."); accord *Maryland v. Territory of Md.*, 2017 WL 1807157, at *5 (D. Md. May 5, 2017) (finding that the plaintiffs' claims of executor de son tort fail under Maryland law because the case does not involve the administration of an estate). Moreover, while the federal court has jurisdiction over Gerald's tort claims, jurisdiction over administration of George's Estate rests exclusively with the Probate Court. See *Marshall v. Marshall*, 547 U.S. 293, 311-12 (2006). Consequently, if Gerald is entitled to a remedy in this case, the Probate Code appears to envision that he find that remedy in the Probate Court.

Out of respect for the Probate Court's jurisdiction, and in recognition of the limitations of the federal court's jurisdiction, I was hoping you could advise on how you wish to proceed. My proposal is that the Probate Court lift its stay and begin the process of administering George's Estate and that the federal court stay its case pending resolution of the probate matter. It is likely that the conclusion of the Estate administration process will obviate the need for further proceedings in federal court. If it does not, the parties would, of course, be free to return to federal court and litigate any remaining claims. I look forward to hearing how you would prefer to move forward.

With kind regards, I am

Sincerely,



David C. Norton
 United States District Judge

DCN/ess

cc: Robert H. Brunson, Esq.
 Charles Russell Keep, III, Esq.

conversion, “a plaintiff must prove (1) an interest by the plaintiff in the thing converted; (2) the defendant converted the property to his or her own use; and (3) the use was without the plaintiff’s permission.” *Builders Source Direct v. Cosco Logistics (Americas) Inc.*, 2008 WL 11349731, at *11 (D.S.C. 2008) (citing *Crane v. Citicorp Nat’l Servs., Inc.*, 313 S.C. 70, 437 S.E.2d 50 (1993), *superseded by statute on other grounds*)). “[I]t is essential that the plaintiff establish either title to or right to the possession” of the property at the time of conversion. *Regions Bank*, 354 S.C. at 667, 582 S.E.2d at 442 (citation and internal quotation marks omitted).

The first element of conversion is met here because the Estate owned a one-half interest in the Property at the time of the Sale and was, therefore, entitled to receive one half of the proceeds of the Sale.¹ That is because the joint tenancy with rights of survivorship in which Nemeth and Decedent owned the Property was severed by their divorce in 2007 pursuant to South Carolina Code sections 27-7-40(a)(vii) and 62-2-507(c)(2).

Nemeth admits that she and Decedent divorced in 2007. Compl., at ¶ 9; Answer, at ¶ 2. She also admits the divorce order did not reference or disclose the Property. Exhibit A; Return, at

¹ Plaintiff acknowledges that a conversion action “does not lie when alleging the exercise of dominion or control over real property.” *Hawkins v. City of Greenville*, 358 S.C. 280, 297, 594 S.E.2d 557, 566 (Ct. App. 2004). However, as Plaintiff’s Complaint makes clear, the subject property of the conversion claim are the *proceeds* from the Sale of the Property, not the Property itself. Proceeds from the sale of real property are personal property and, therefore, may be subject to a conversion claim. See *SSI Med. Servs., Inc. v. Cox*, 301 S.C. 493, 498, 392 S.E.2d 789, 792 (1990) (“Money may be the subject of conversion when it is capable of being identified and there may be conversion of determinate sums even though the specific coins and bills are not identified.”); affirming summary judgment in plaintiff’s favor on its claim for conversion where plaintiff sufficiently established defendant wrongfully retained at least \$121,489.64 from the sale of automobiles leased by plaintiff); *Alisa A. Peskin-Shepherd, PLLC v. Blume*, 974 N.W.2d 835, 836 (Mich. 2022) (“It is true that proceeds of a real-estate sale are personal property and thus may be subject to conversion.”); *Stewart v. Young*, 226 N.W. 222, 224 (Mich. 1929) (holding that when real estate is sold without permission of all parties involved, “such proceeds are not real estate, but personal property”).

conversion and retention of the Estate’s one-half share of the proceeds of the sale of real property. It does not involve, as Nemeth appears to think, Plaintiff’s individual creditor’s claim against the Estate.¹ The causes of action before the Court belong to George Niesar’s Estate, not to Gerald Niesar, personally.

On December 6, 2024, the Estate—acting through its Personal Representative—filed the present Complaint in the Probate Court, alleging against Nemeth causes of action for conversion, liability as *executor de son tort*, and constructive trust. Upon Plaintiff’s timely motion, the action was removed to this Court on April 3, 2025 by Associate Probate Judge Lindsay A. Sutcliffe in an Order attached hereto as **Exhibit A** (the “Order of Removal”) pursuant to S.C. Code Ann. §§ 62-1-302(d)(3) and (5).²

Plaintiff filed his Motion for Summary Judgment on May 6, 2025 and a supporting memorandum of law (“Summary Judgment Memorandum”) prior to the hearing, arguing there are no issues of fact material to his three causes of action and that he is, accordingly, entitled to judgment as a matter of law under Rule 56 of the South Carolina Rules of Civil Procedure. On October 7, 2025, Nemeth filed a return (“Return”)—two pages in length and devoid of legal citation—arguing (in undersigned counsel’s interpretation) that “this case should be dismissed”³

¹ While it is true Plaintiff’s Complaint mentions his creditor’s claim (Complaint ¶¶ 22, 24), and that claim remains pending in the Beaufort County Probate Court (“Probate Court”), it is not alleged as a cause of action in Plaintiff’s Complaint and, accordingly, is not at issue before this Court.

² The Order of Removal also ordered removal of Nemeth’s Summons and Petition for Formal Testacy and Appointment filed on January 23, 2024.

³ Nemeth’s request for dismissal in a return to a motion for summary judgment is just one example of many during the course of this litigation of her failure to follow mandatory civil procedure and to grapple with the applicable issues and standard of review. *See* Rule 7(b)(1), SCRCP (“An application to the court for an order shall be by motion . . .”); Rule 56, SCRCP (enabling *judgment* as a matter of law, not dismissal).

because: (i) Decedent's and Nemeth's joint tenancy with rights of survivorship were not severed by their divorce, and (ii) that the Estate does not own one-half of the property because "Christine was willed the property." Nemeth attached to her Return only two exhibits, a letter from United States District Court Judge David C. Norton to Judge Sutcliffe dated October 8, 2022 and a copy of a document entitled "Last Will and Testament of George Francis Niesar" purportedly executed by Decedent on December 17, 2018 naming Nemeth as Decedent's sole beneficiary ("Purported Will"). Notably, Nemeth's Return did not take issue with any of the factual allegations upon which Plaintiff's claims are based, instead only disputing (without any explanation or analysis) the legal consequences of those undisputed facts.

After a hearing, the Court entered its Final Order Granting Plaintiff's Motion for Summary Judgment ("Final Order") on December 31, 2025, granting summary judgment on all of Plaintiff's claims and: (i) awarding damages to Plaintiff in the amount of \$443,000, plus pre- and post-judgment interest, (ii) reducing the value of any distribution or payment to which Nemeth may be entitled to receive from the Estate by \$443,000 pursuant to S.C. Code Ann. § 62-3-619, and (iii) imposing a constructive trust over \$443,000, an amount which represents the portion of the proceeds of the sale of real estate that belong to the Estate, plus the interest awarded.

On January 6, 2026, Nemeth filed the present motion to reconsider (the "Motion to Reconsider") pursuant to Rule 59(e): (i) arguing it is unjust to award Plaintiff \$443,000 on a claim for an unpaid loan of \$24,000, (ii) asking "[w]ho does this combined total award of \$559,104.45 go to?" and (iii) concluding, "the Plaintiff was not damaged by more than \$24,000." Again, Nemeth does not dispute the facts relied upon in Plaintiff's motion for summary judgment and this Court's Final Order.

The Court held a hearing on the Motion to Reconsider on January 14, 2026 during which the Court, *sua sponte*, raised concerns about the soundness of its Final Order, specifically questioning whether: (i) a claim for conversion can be based upon the proceeds of the sale of real property in South Carolina; (ii) the Circuit Court has subject matter jurisdiction to make a finding of liability as *executor de son tort*, and (iii) any issue of material fact exists as to Plaintiff's claim for constructive trust.⁴ Because Nemeth never raised these issues—either at summary judgment or in her Motion to Reconsider—Plaintiff did not have a prior opportunity to address these points. Plaintiff requested the opportunity to provide the Court with briefing on these questions, which the Court graciously granted.

ARGUMENT

None of the facts material to Plaintiff's claims are in dispute. This case presents only pure questions of law, which the Court correctly decided in Plaintiff's favor. Accordingly, the Court should deny the Motion to Reconsider and allow its Final Order to stand.

I. The Court should not grant reconsideration on grounds Nemeth did not raise.

As a threshold matter, given the limited purpose and availability of Rule 59(e) relief and the strong policy interest in the finality of judgments, Plaintiff respectfully submits that the Court may not modify or reverse its Final Order on legal grounds that were available to but never raised by Nemeth—either in response to Plaintiff's Motion for Summary Judgment or in her present Motion to Reconsider. *Oulla v. Velazques*, 427 S.C. 428, 436, 831 S.E.2d 450, 454 (Ct. App. 2019) (discussing “the philosophy favoring finality of judgments and the expeditious termination of litigation”); *Bowman v. Bowman*, 357 S.C. 146, 152, 591 S.E.2d 654, 657 (Ct. App. 2004) (“[W]e

⁴ If this is not an accurate recitation of the Court's true concerns, Plaintiff respectfully requests the opportunity to brief those before the Court decides the Motion to Reconsider.

conclude that South Carolina’s strong policy towards finality of judgments trumps a party’s ability to set aside a judgment where, as here, the party could have discovered the evidence prior to trial.”).

The South Carolina Supreme Court has reiterated that *parties* may not raise an issue for the first time in a Rule 59(e) motion to reconsider. *Repko v. Cnty. of Georgetown*, 424 S.C. 494, 502, 818 S.E.2d 743, 748 (2018) (“It is settled that “[a]n issue may not be raised for the first time in a motion to reconsider.” (quoting *Johnson v. Sonoco Prods. Co.*, 381 S.C. 172, 177, 672 S.E.2d 567, 570 (2009)); *C.A.H. v. L.H.*, 315 S.C. 389, 434 S.E.2d 268 (1993); *Hickman v. Hickman*, 301 S.C. 455, 456, 392 S.E.2d 481, 482 (Ct. App. 1990) (“A party cannot use Rule 59(e) to present to the court an issue the party could have raised prior to judgment but did not.”). Rather, a motion under Rule 59(e) is proper only when a party believes the court has misunderstood or failed to fully consider or rule upon an argument or issue. *Elam v. S.C. Dep’t of Transp.*, 361 S.C. 9, 24, 602 S.E.2d 772, 780 (2004). Rule 59(e) is, therefore, limited in purpose to addressing only arguments asserted by the movant. Unlike Rules 59(d) and 60(a), Rule 59(e) does not extend to courts an invitation to raise issues the movant could have—but neglected to—make prior to a final judgment. Compare Rule 59(e), SCRCPP (“A motion to alter or amend the judgment shall be served not later than 10 days after receipt of written notice of the entry of the order.”), with Rule 59(d), SCRCPP (“Not later than 10 days after entry of judgment, *the court of its own initiative* may order a new trial for any reason for which it might have granted a new trial on motion of a party.” (emphasis added)), and Rule 60(a), SCRCPP (“Clerical mistakes in judgments, orders or other parts of the record and errors therein arising from oversight or omission may be corrected *by the court at any time of its own initiative* or on the motion of any party” (emphasis added)).

For example, in *Heins v. Heins*, after a divorcing husband failed to comply with several provisions of the divorce decree, the family court entered an order: (i) holding the husband in

contempt of court and, as a result, ordering him to pay \$4,146 to wife, (ii) ordering him to pay the wife's attorneys' fees, but (iii) finding the husband was under no obligation to repay certain personal expenses or undisclosed accounts payable. 344 S.C. 146, 149-50 543 S.E.2d 224, 225-26 (Ct. App. 2001). The wife, dissatisfied with the third finding, moved for reconsideration under Rule 59(e), arguing the family court erred in failing to require the husband to be responsible for his personal debts and the accounts payable. The husband filed a return to the wife's motion, denying the wife was entitled to this relief but not otherwise seeking reconsideration of the court's order. The family court denied the wife's motion but *sua sponte* reversed its prior order, which held husband in contempt. The wife moved again for reconsideration, which the court denied.

The Court of Appeals reversed, explaining that while Rule 59(e) is silent on the power of a court to alter or amend a judgment on its own initiative (unlike Rule 59(d) and Rule 60(a)), such silence does not imply that courts lack this power. The court reviewed both federal and state precedent, however, to conclude that this power is time-limited, finding courts possess this inherent power only during the ten-day window during which Rule 59(e) motions are required to be filed or else waived. The court specifically held, "[w]e rule a Family Court judge does not have the authority to alter or amend a judgment, *sua sponte*, once the judgment is more than 10-days-old." *Id.* at 157, 543 S.E.2d at 229. Accordingly, even though a motion for reconsideration had been timely filed, because the family court ordered relief outside the scope of issues presented in that motion, its action was considered to have been *sua sponte*—something it could have done only within ten days after entry of the prior judgment. Because the family court's order on reconsideration fell outside of that ten-day window, the Court of Appeals found the family court exceeded its power and reversed its order as to that relief.

Here, like in *Heins*, the Court has proposed to grant relief outside the scope of issues presented in Nemeth's Motion to Reconsider. However, because ten days have passed since the Court entered its Final Order, it may not do so. Rather, the Court, in the present procedural posture, is free to grant reconsideration under Rule 59(e) on any of the grounds asserted by Nemeth in her Motion to Reconsider or Return—but only those grounds. As discussed briefly in the next section, those grounds are meritless.

II. Nemeth's arguments do not warrant reversal of summary judgment.

As already mentioned, Nemeth, in her Return, did not dispute any facts Plaintiff cited in support of his motion for summary judgment. Instead, Nemeth argued only that: (i) Decedent's and Nemeth's joint tenancy with rights of survivorship was not severed by their divorce, and (ii) that the Estate does not own one-half of the property because "Christine was willed the property."

As explained at greater length in Plaintiff's Summary Judgment Memorandum, Nemeth's first argument fails because S.C. Code Ann. §§ 27-7-40(a)(vii) and 62-2-507(c)(2) unequivocally instruct that unless a governing instrument, court order, or contract provides otherwise, a divorce severs any rights of survivorship between a married couple. Nemeth admits both that she and Decedent divorced and that the divorce decree does not mention the property in question yet perplexingly insists this means their survivorship rights "remain[] in effect." Return, at ¶ 6. Nowhere does Nemeth reveal the analytical path she took to arrive at that (faulty) conclusion.

Nemeth's second argument concerning Nemeth's status as the Estate's sole beneficiary via the Purported Will is immaterial to the claims at issue here because the Purported Will—even assuming it is valid and governs the distribution of Decedent's Estate—cannot undo the severance of survivorship rights that took place in 2007 upon Decedent's and Nemeth's divorce. Contrary to her assertions, because of the severance of survivorship rights, the real property became a part of

Decedent's Estate and subject to administration upon his death and did not automatically pass to Nemeth. *See* S.C. Code Ann. § 62-1-201(35) (defining "Probate estate" as "the decedent's property passing under the decedent's will plus the decedent's property passing by intestacy"); § 62-1-201(37) (defining "Property" to include "both real and personal property or any interest therein"); *Estate of Livingstone v. Livingstone*, 404 S.C. 137, 145, 744 S.E.2d 203, 208 (Ct. App. 2013).

Next, in her Motion to Reconsider, Nemeth's **sole** argument—again, unburdened by legal citation or analysis—is that the damages award of \$443,000 plus interest is unjustly disproportionate to the value of Plaintiff's \$24,000 creditor's claim. Motion to Reconsider, at ¶¶ 4-6. As mentioned above, it appears Nemeth has her claims confused. The damages award in the Final Order is the remedy for the Estate's claims against Nemeth, not for Gerald Neisar's individual creditor's claim against the Estate, which is not encompassed by this action. Therefore, Nemeth has utterly failed to meet her burden of showing any errors in this Court's Final Order and that the Court should alter or amend that judgment pursuant to Rule 59(e).

III. The Court properly granted summary judgment on Plaintiff's conversion claim.

In the event the Court disagrees with Plaintiff on the issues available for reconsideration, the Court should still deny reconsideration and allow its judgment on Plaintiff's conversion claim to stand because all necessary elements of that cause of action are met. Plaintiff will not rehash his entire conversion analysis but will address only the Court's question whether the proceeds of the sale of real property are the proper subject of a conversion claim.

Conversion in South Carolina is the "unauthorized assumption and exercise of the right of ownership over goods or personal chattels belonging to another, to the alteration of the condition or the exclusion of the owner's rights." *Regions Bank v. Schmauch*, 354 S.C. 648, 667, 582 S.E.2d 432, 442 (Ct. App. 2003) (citation and internal quotation marks omitted). To establish a cause of

action for conversion, “a plaintiff must prove (1) an interest by the plaintiff in the thing converted; (2) the defendant converted the property to his or her own use; and (3) the use was without the plaintiff’s permission.” *Builders Source Direct v. Cosco Logistics (Americas) Inc.*, 2008 WL 11349731, at *11 (D.S.C. 2008) (citing *Crane v. Citicorp Nat’l Servs., Inc.*, 313 S.C. 70, 437 S.E.2d 50 (1993), *superseded by statute on other grounds*)).

Plaintiff acknowledges the rule that a conversion action “does not lie when alleging the exercise of dominion or control over real property,” *Hawkins v. City of Greenville*, 358 S.C. 280, 297, 594 S.E.2d 557, 566 (Ct. App. 2004), and that there are no reported cases from this State explicitly standing for the proposition that proceeds of the sale of real property can be converted. However, Plaintiff has also not located any South Carolina cases rejecting this proposition.

Under South Carolina law, an interest in real property becomes an interest only in personal property when the owner executes a contract to sell the property. “The theory of equitable conversion provides that under an executory contract for the sale of real estate, the equitable estate passes to the purchaser and the bare legal title for security purposes remains in the vendor.” *Brooks v. Council of Co-Owners of Stones Throw Horizontal Prop. Regime I*, 315 S.C. 474, 476, 445 S.E.2d 630, 632 (1994). Accordingly, upon entering a contract to sell real property, the seller becomes the owner of the purchase price, and the buyer is deemed to be the equitable owner of the real estate. See *In re Restivo Auto Body, Inc.*, 772 F.3d 168, 177 (4th Cir. 2014) (“[U]pon contracting to buy land, ‘in equity the vendee becomes the owner of the land, the vendor of the purchase money.’” (citing *Himmighoefer v. Medallion Indus., Inc.*, 487 A.2d 282, 286 (Md. 1985))); *Meltzer v. Wendell-West*, 497 P.2d 1348, 1351 (Wash. 1972) (“An equitable conversion, therefore, takes place when a contract for the sale of real property becomes binding upon the

parties. Thenceforth, the purchaser of the land is deemed the equitable owner thereof, and the seller is considered the owner of the purchase price.”).

It is undisputed that Nemeth and Decedent executed a contract to sell the property to the Beaufort County School District on September 3, 2022. Compl. at ¶ 14; Answer at ¶ 2. Thus, on that day, each became the owner of their right to receive their portion of the agreed purchase price, and neither remained an equitable owner of the real property. Because Decedent’s only interest was in the sales proceeds when he died, and the proceeds of sale constituted personal, not real property, Nemeth’s retention of Decedent’s share of those proceeds constituted a conversion of personal property. *See SSI Med. Servs., Inc. v. Cox*, 301 S.C. 493, 498, 392 S.E.2d 789, 792 (1990) (“Money may be the subject of conversion when it is capable of being identified and there may be conversion of determinate sums even though the specific coins and bills are not identified.”); *Daniel v. Post*, 181 S.C. 468, 187 S.E. 915, 917 (1936) (“Where personal property has been converted and sold, an action lies either for damages for the conversion or for the recovery of the proceeds of sale, the first being trover and the second assumpsit for money had and received.”).

Additionally, other jurisdictions have examined this exact question, even recently, and concluded that real property sales proceeds constitute personal property that can support a conversion claim. *See Alisa A. Peskin-Shepherd, PLLC v. Blume*, 974 N.W.2d 835, 836 (Mich. 2022) (“It is true that proceeds of a real-estate sale are personal property and thus may be subject to conversion.”); *Asdourian v. Konstantin*, 93 F. Supp. 2d 296, 299 (E.D.N.Y. 2000) (“As the conversion cause of action concerned the proceeds of the sale of properties and not the conversion of real property itself, the Court denies the defendant’s motion for judgment as a matter of law with regard to the contention that Blue Chip may not recover in conversion for the wrongful sale of real property.”); *Congram v. Giella*, No. 91 CIV. 1134 (LMM), 1992 WL 349845, at *6 (S.D.N.Y.

Nov. 10, 1992) (distinguishing between a claim for conversion of real property and a claim for the proceeds from the sale of real property); *Stewart v. Young*, 226 N.W. 222, 224 (Mich. 1929) (holding that when real estate is sold without permission of all parties involved, “such proceeds are not real estate, but personal property”).

Because South Carolina precedent establishes that a real property interest becomes a personal property interest when a sales contract is executed, and the sales contract here was executed on September 3, 2022, only a personal property interest remained when the Decedent died on October 7, 2022. So, when Nemeth kept all of the sale’s proceeds, she converted personal property to her own use, and that conduct renders her liable for conversion.

IV. The Court properly granted summary judgment on Plaintiff’s claim for liability as *executor de son tort*.

As explained in greater detail in Plaintiff’s Summary Judgment Memorandum, summary judgment was proper on Plaintiff’s claim for Nemeth’s liability as an *executor de son tort* of Decedent’s Estate. Importantly, this Court has subject matter jurisdiction to make such a determination.

It appears the Court’s concern derives from the language of section 62-3-620, which provides:

Acting sua sponte or upon the petition of any interested person, *the probate judge* of the county in which a deceased person was domiciled at the time of his death may order the executor de son tort to account for the property in his possession. Upon a finding that the property has been converted, wasted or otherwise damaged through improper interference, the court may assess damages including attorney's fees and costs in the amount determined by the court not to exceed the value of the property charged to the executor de son tort.

S.C. Code Ann. § 62-3-620 (emphasis added). However, this section does not deprive the Court of subject matter jurisdiction to determine liability as *executor de son tort* or to provide the specific remedy it did in its Final Order.

To begin with, section 62-3-620 is not even mentioned in the Court’s Final Order. The Final Order does not cite section 62-3-620 or provide the remedies it enables. Rather, the Final Order only utilizes the neighboring code section, section 62-3-619, which does not even arguably limit the finding of liability as *executor de son tort* to any particular court or judge. Rather, that section provides:

Any person who obtains, receives, or possesses property of whatever kind, belonging to the decedent, by means of fraud or without paying valuable consideration equivalent to the value of the property, shall be charged and chargeable as executor of his own wrong (executor de son tort) with respect to the goods and debts. The value of the property is charged to the executor de son tort. Likewise, the value of the property shall be deducted from any distribution or payment of any claim or commission to which the executor de son tort is entitled from the estate.

Section 62-3-619 does not specify which court or judge may determine that a person has “obtain[ed], receiv[ed], or possess[ed] property . . . belonging to the decedent, by means of fraud or without paying valuable consideration” or to order the remedy the Final Order did in this case—the reduction of any distribution to which Nemeth may be entitled—which remedy is not provided for in section 62-3-620, the arguably problematic section.

Even assuming that section 62-3-620—and its arguably limiting “probate judge” language—is somehow involved in this case (which it is not), it is not a jurisdictional statute. Rather, it simply allows the court, after finding that an *executor de son tort* is liable, to provide the remedy of an “account[ing] for the property in his possession” and to assess damages if the property in the *executor de son tort*’s possession has been converted, wasted or otherwise damaged. Importantly, section 62-3-620 uses the terms “probate judge” and “court” interchangeably. Because the probate code does not define “court” as “the probate court” but,

rather, as “the court or branch having jurisdiction in matters as provided in this Code,”⁵ section 62-3-620 does not foreclose the possibility that the Circuit Court can also have jurisdiction, if the probate code provides so.

The probate code does so provide. This action was removed from the Probate Court to this Court under S.C. Code Ann. §§ 62-1-302(d)(3) and (5), which provide concurrent jurisdiction to the Circuit Court over “actions to try title concerning property in which the estate of a decedent or protected person asserts an interest” and “actions in which a party has a right to trial by jury and which involve an amount in controversy of at least five thousand dollars in value.” S.C. Code Ann. §§ 62-1-302(d)(3), (5). As Judge Sutcliffe found, this action falls in both categories. Either is sufficient to confer jurisdiction.

First, this is an “action[] to try title concerning property in which the estate of a decedent or protected person asserts an interest” because one of the issues essential to all of Plaintiff’s claims is the Estate’s ownership of the proceeds of the sale of the property. *See Builders Source Direct*, 2008 WL 11349731, at *11 (“In order to establish a cause of action for conversion, a plaintiff must prove (1) an interest by the plaintiff in the thing converted. . . .”); S.C. Code Ann. § 62-3-619 (to establish liability as *executor de son tort*, it must be shown that the property wrongfully obtained, received, or retained “belong[ed] to the decedent”); *SSI Med. Servs., Inc. v. Cox*, 301 S.C. 493, 500, 392 S.E.2d 789, 793 (1990) (“A constructive trust arises whenever a party has obtained money which does not equitably belong to him and which he cannot in good conscience retain or withhold from another who is beneficially entitled to it. . . .”).

Second, this Court has jurisdiction for the additional reason that this is an “action[] in which a party has a right to trial by jury and which involve an amount in controversy of at least five

⁵ S.C. Code Ann. § 62-1-201(5) (defining “court”).

thousand dollars in value.” S.C. Code Ann. § 62-1-302(d)(5). Section 62-1-306(a), “entitle[s]” parties to a jury trial if a jury trial is duly demanded and the action is “for the recovery of money only or of specific real or personal property.” Here, the Complaint involves an amount in controversy in excess of \$5,000, demands a jury trial, and seeks both monetary damages and a constructive trust over the specific portion of the sale’s proceeds that belongs to the Estate. Complaint, Jury Demand, ¶¶ 2-4.

Therefore, this Court has subject matter jurisdiction over the entirety of this action—including Plaintiff’s claim for liability as *executor de son tort*—pursuant to S.C. Code Ann. §§ 62-1-302(d)(3) and (5).⁶

V. The Court properly granted summary judgment on Plaintiff’s claim for constructive trust.

The Court properly granted summary judgment on Plaintiff’s claim for constructive trust. A constructive trust is an operation of law designed to remedy unjust enrichment, *Hale v. Finn*, 388 S.C. 79, 89, 694 S.E.2d 51, 57 (Ct. App. 2010), and “arises whenever a party has obtained money which does not equitably belong to him and which he cannot in good conscience retain or withhold from another who is beneficially entitled to it as where money has been paid by accident, mistake of fact, or fraud, or has been acquired through a breach of trust or the violation of a fiduciary duty.” *SSI Med. Servs.*, 301 S.C. at 500, 392 S.E.2d at 793-94.

⁶ The case cited in Judge Norton’s letter to Judge Sutcliffe dated October 8, 2024, *Maryland v. Territory of Maryland*, No. CV PX 16-3426, 2017 WL 1807157, at *1 (D. Md. May 5, 2017) is not binding and, in any event, does not stand for the proposition that a South Carolina Circuit Court does not have jurisdiction to make a finding of liability of *executor de son tort*. That case did not involve South Carolina courts or law and found that Maryland’s concept of *executor de son tort* did not apply for the entirely distinguishable reason that the *pro se* plaintiffs’ action did not involve a decedent or an estate at all.

Nemeth has failed to show, by affidavit or otherwise in either her Return or her Motion to Reconsider, a genuine issue that Nemeth has not been unjustly enriched by her unlawful and fraudulent retention of the full proceeds of the property's sale, when one half of those proceeds belongs to the Estate. As discussed above in Section II and in the Final Order, Nemeth does not dispute any of the facts upon which Plaintiff's constructive trust claim rests. Specifically, she does not dispute that she and Decedent divorced in 2007; that their divorce decree did not mention the property; that she and Decedent contracted to sell the property on September 3, 2022 while Decedent was alive; that Decedent died on October 7, 2022 during the closing period; that she sent a Power of Attorney ("POA") to the buyer of the property on the day Decedent died; that on October 12, 2022, she executed and delivered to the buyer an affidavit stating that the POA remained in effect (despite Decedent's death five days earlier); or that she sold the property on or around October 31, 2022 and retained all of the proceeds of the sale. *See* Final Order, at 2-3 (detailing undisputed facts).

Procedurally, it is too late for her to do so now. *See* Rule 6(d), SCRCP ("[O]pposing affidavits may be served not later than two days before the hearing, unless the court permits them to be served at some other time."); Rule 56(c), SCRCP (allowing a party adverse to a motion for summary judgment to "serve opposing affidavits not later than two days before the hearing"); *Johnson v. Sonoco Prod. Co.*, 381 S.C. 172, 177, 672 S.E.2d 567, 570 (2009) ("An issue may not be raised for the first time in a motion to reconsider.").

Therefore, the Court should not disturb its final judgment on Plaintiff's claim for constructive trust. *See SSI Med. Servs.*, 301 S.C. at 501, 392 S.E.2d at 794 (affirming summary judgment in plaintiff's favor on its claim for constructive trust where the "profits [the defendant]

retained from the sale of the vehicles were acquired through a breach of trust and fiduciary duty” and, therefore, “did not equitably belong to [the defendant]”).

CONCLUSION

Based on the above, Plaintiff respectfully submits the Court properly granted Plaintiff’s Motion for Summary Judgment, that Nemeth has done literally nothing to show otherwise, and that this Court should accordingly deny her Motion to Reconsider.

NELSON MULLINS RILEY & SCARBOROUGH LLP

By: /s/ Robert H. Brunson

Robert H. Brunson (S.C. Bar No. 11987)
 Email: robert.brunson@nelsonmullins.com
 John P. Bozeman (S.C. Bar No. 105262)
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 151 Meeting Street / Sixth Floor
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 Charleston, SC 29401-2239
 (843) 853-5200

*Attorneys for Plaintiff Gerald Viglione Niesar, individually and
 as Personal Representative of the Estate of George Francis
 Niesar*

Charleston, South Carolina
 January 26, 2026

EXHIBIT A

BEAUFORT COUNTY PROBATE COURT

JUDGE
HEATHER R. GALVIN



ASSOCIATE JUDGE
LINDSAY A. SUTCLIFFE
HALEY G. FINNERAN

COUNTY COURTHOUSE
102 RIBAUT ROAD, BEAUFORT, SC 29902

April 3, 2025

Robert H. Brunson, Esquire
John P. Bozeman, Esquire
151 Meeting Street
Suite 600
Charleston, SC 29401

C. Russell Keep, III, Esquire
Suite 303, WaterEdge
P.O. Drawer 5877
Hilton Head Island, SC 29938

Re: Estate of Maurice Levy: George Frances Niesar
Probate Court Case No. 2023ES0700417

Counselors:

Enclosed please find a copy of the Order for Removal of the above-referenced action to the Circuit Court, which has been entered this date. This Court's Certificate of Return to the Circuit Court, together with a Civil Action Coversheet, has been filed with the Beaufort County Clerk of Court and proof thereof mailed to all counsel here in.

Any filing fee due in connection with the removal must be paid directly to the Clerk of Court. All pleadings and papers in the removed action must hereafter be filed in the Circuit Court. The Probate Court retains continuing exclusive jurisdiction over the administration of the estate.

Thank you for your attention to this matter.

Very truly yours,

Lindsay A. Sutcliffe, Associate Judge
Beaufort County Probate Court

By: 
Aleathia Greene, Deputy Clerk

Enclosure

cc (w/encl.): Ms. Catherine Niesar Heft
Mr. Eric Niesar



STATE OF SOUTH CAROLINA)
COUNTY OF BEAUFORT)

IN THE COURT OF COMMON PLEAS
FOURTEENTH JUDICIAL CIRCUIT
CASE NO. 2023ES0700417

IN THE MATTER OF ESTATE OF)
GEORGE FRANCES NIESAR,)

2025 CP0700873

GERALD VIGLIONE NIESAR)

CERTIFICATE OF RETURN
TO CIRCUIT COURT FOR
CASE ON REMOVAL FROM
PROBATE COURT

Petitioner,

v.

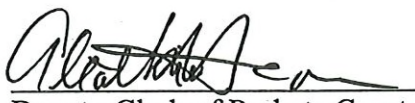
CHRISTINE NEMETH

Respondent.

2025 APR -3 PM 3:14
JERRI ANN ROSENEAU
BEAUFORT COUNTY, S.C.
CLERK OF COURT

TO: CIRCUIT COURT FOR FOURTEENTH JUDICIAL CIRCUIT OF SOUTH
CAROLINA:

This certifies that the attachments are true copies of the proceedings in the above-referenced matter (commenced in Probate Court Case No. 2023ES0700417), which are submitted herewith by reason of the removal of the matter to the Circuit Court by Order of the Beaufort County Probate Court (copy attached) entered April 3, 2025, pursuant to S.C. Code Section 62-1-302(d).


Deputy Clerk of Probate Court
Beaufort County Probate Court

Beaufort, South Carolina
April 3, 2025

CERTIFICATE OF MAILING

This certifies that a true copy of the foregoing Certificate of Return to Circuit Court for Case on Removal, without attachments, was this day mailed by U. S. Mail, first class and postage prepaid, to the following named persons at their respective addresses shown below:

Robert H. Brunson, Esquire
Nelson Mullins Riley &
Scarborough LLP
151 Meeting Street
Suite 600
Charleston, SC 29401

Ms. Catherine Niesar Heft
11866 Island Lakes Lane
Boca Raton, FL 33498

2025 APR -3 PM 3:15
JERRI ANN ROSENEAU
BEAUFORT COUNTY, S.C.
CLERK OF COURT

John P. Bozeman, Esquire
Nelson Mullins Riley &
Scarborough LLP
151 Meeting Street
6th Floor
Charleston, SC 29401

Mr. Eric Niesar
655 Ane Cheh Colonars II
06790 Aspremont, France

C. Russell Keep, III, Esquire
Russ Keep Law Office
Suite 303, WatersEdge
P.O. Drawer 5877
Hilton Head Island, SC 29938



Deputy Clerk of Probate Court
Beaufort County Probate Court

Beaufort, South Carolina
April 3, 2025



STATE OF SOUTH CAROLINA
COUNTY OF BEAUFORT 2025 APR -3 PM 3:15 IN THE COURT OF COMMON PLEAS

Gerald Viglione Niesar, individually and as
Personal Representative of the Estate of
George Francis Niesar,
Plaintiff

JERRI ANN ROSENEAU
CLERK OF COURT
BEAUFORT COUNTY, S.C.

Civil Action Coversheet

v.
Christine Nemeth,
Defendant

Case No. 2025-CP-07-00873

Submitted By: Robert Brunson, Esquire
Address: 151 Meeting Street / Sixth
Floor, Charleston, SC 29401

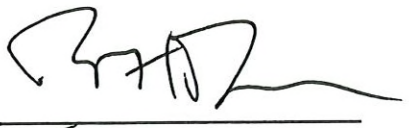
SC Bar Number: 11987
Telephone #: 843-853-5200
Click or tap here to enter text.
Other:
Email:
robert.brunson@nelsonmullins.com

DOCKETING INFORMATION (Check all that apply)

***If Action is Judgment/Settlement do not complete**

- ☒ **JURY TRIAL** demanded in complaint.
☐ **NON-JURY TRIAL** demanded in complaint.
☐ This case is subject to **ARBITRATION** pursuant to the Court Annexed Alternative Dispute Resolution Rules.
☒ This case is subject to **MEDIATION** pursuant to the Court Annexed Alternative Dispute Resolution Rules.
☐ This case is exempt from ADR. (Certificate Attached)

Note: Frivolous civil proceedings may be subject to sanctions pursuant to SCRCP, Rule 11, and the South Carolina Frivolous Civil Proceedings Sanctions Act, S.C. Code Ann. §15-36-10 et. seq.

Submitting Party Signature: 

Date: March 20, 2025

2025 MAR 27 PM 12:20
FILED
BEAUFORT COUNTY, SC

Nature of Action (Check one box below)

Contracts

- ☐ Constructions (100)
- ☐ Debt Collection (110)
- ☐ General (130)
- ☐ Breach of Contract (140)
- ☐ Fraud/Bad Faith (150)
- ☐ Failure to Deliver/Warranty (160)
- ☐ Employment Discrim (170)
- ☐ Employment (180)
- ☐ Other (199)

**Torts- Professional
Malpractice**

- ☐ Dental Malpractice (200)
 - ☐ Legal Malpractice (210)
 - ☐ Medical Malpractice (220)
 - ☐ Notice of Intent Case #
-
- ☐ Notice File. Med Mal (230)
 - ☐ Other (299)

Torts- Personal Injury

- ☒ Conversion (310)
- ☐ Motor Vehicle Accident (320)
- ☐ Premises Liability (330)
- ☐ Products Liability (340)
- ☐ Personal Injury (350)
- ☐ Wrongful Death (360)
- ☐ Assault/Battery (370)
- ☐ Slander/Libel (380)
- ☐ Other (399)

Inmate Petitions

- ☐ PCR (500)
- ☐ Mandamus (520)
- ☐ Habeas Corpus (530)
- ☐ Other (599)

Real Property

- ☐ Claim & Delivery (400)
- ☐ Condemnation (410)
- ☐ Foreclosure (420)
- ☐ Mechanic's Lien (430)
- ☐ Partition (440)
- ☐ Possession (450)
- ☐ Building Code Violation (460)
- ☐ Other (499)

Judgments/Settlements

- ☐ Death Settlement (700)
- ☐ Foreign Judgment (710)
- ☐ Magistrate's Judgment (720)
- ☐ Minor Settlement (730)
- ☐ Transcript Judgment (740)
- ☐ Lis Pendens (750)
- ☐ Transfer of Structured Settlement Application Payment Rights (760)
- ☐ Confession of Judgment (770)
- ☐ Petition for Workers Compensation Settlement Approval (780)
- ☐ Incapacitated Adult Settlement (790)
- ☐ Other (799)

Administrative Law/Relief

- ☐ Reinstate Driver's License (800)
- ☐ Judicial Review (810)
- ☐ Relief (820)
- ☐ Permanent Injunction (830)
- ☐ Forfeiture- Petition (840)
- ☐ Forfeiture- Consent Order (850)
- ☐ Other (899)

Special/Complex/Other

- ☐ Environmental (600)
- ☐ Automobile Arb. (610)
- ☐ Medical (620)
- ☐ Pharmaceuticals (630)
- ☐ Unfair Trade Practices (640)
- ☐ Out of State Depositions (650)
- ☐ Motion to Quash Subpoena in an Out of County Action (660)
- ☐ Pre-Suit Discovery (670)
- ☐ Permanent Restraining Order (680)
- ☐ Interpleader (690)
- ☐ Other (699)

Appeals

- ☐ Arbitration (900)
- ☐ Magistrate- Civil (910)
- ☐ Magistrate- Criminal (920)
- ☐ Municipal (930)
- ☐ Probate Court (940)
- ☐ SCDOT (950)
- ☐ Worker's Comp (960)
- ☐ Zoning Board (970)
- ☐ Public Service Comm. (990)
- ☐ Employment Service Comm. (991)
- ☐ Other (999)

Effective January 1, 2016, Alternative Dispute Resolution (ADR) is mandatory in all counties, pursuant to Supreme Court Order dated November 12, 2015.

SUPREME COURT RULES REQUIRE THE SUBMISSION OF ALL CIVIL CASES TO AN ALTERNATIVE DISPUTE RESOLUTION PROCESS, UNLESS OTHERWISE EXEMPT.

Pursuant to the ADR Rules, you are required to take the following action(s):

1. The parties shall select a neutral and file a "Proof of ADR" form on or by the 210th day of the filing of this action. If the parties have not selected a neutral within 210 days, the Clerk of Court shall then appoint a primary and secondary mediator from the current roster on a rotating basis from among those mediators agreeing to accept cases in the county in which the action has been filed.
2. The initial ADR conference must be held within 300 days after the filing of the action.
3. Pre-suit medical malpractice mediations required by S.C. Code §15-79-125 shall be held not later than 120 days after all defendants are served with the "Notice of Intent to File Suit" or as the court directs.
4. Cases are exempt from ADR under ADR Rule 3(b) upon the following grounds:
 - a. Special proceeding, or actions seeking extraordinary relief such as mandamus, habeas corpus, or prohibition;
 - b. Requests for temporary relief;
 - c. Appeals;
 - d. Post Conviction relief matters;
 - e. Contempt of Court proceedings;
 - f. Forfeiture proceedings brought by governmental entities;
 - g. Mortgage foreclosures; and
 - h. Cases that have been previously subjected to an ADR conference, unless otherwise required by Rule 3 or by statute.
5. Cases may also be exempt from ADR under ADR Rule 3(c) upon motion to and approval by the court.
6. In cases not subject to ADR, the Chief Judge for Administrative Purposes, upon the motion of the court or of any party, may order a case to mediation.
7. Application of a party to be exempt from payment of neutral fees due to indigency should be filed with the Clerk of Court prior to the scheduling of the ADR conference.

Please Note: You must comply with the Supreme Court Rules regarding ADR. Failure to do so may affect your case or may result in sanctions.

STATE OF SOUTH CAROLINA)
COUNTY OF BEAUFORT)

IN THE MATTER OF ESTATE OF)
GEORGE FRANCIS NIESAR:)

CHRISTINE NEMETH,)
Petitioner,)

v.)

GERALD V. NIESAR, CATHERINE NIESAR)
HEFT, and ERIC NIESAR)
Respondents.)

GERALD VIGLIONE NIESAR, individually and as)
Personal Representative of the)
Estate of George Francis Niesar,)
Petitioner,)

v.)

CHRISTINE NEMETH)
Respondent.)

IN THE PROBATE COURT
CASE NO. 2023ES0700417

2025 CP0700873

2025 APR -3 PM 3:15
JERRI ANN ROSEHEAD
BEAUFORT COUNTY, S.C.
CLERK OF COURT

ORDER REMOVING
FORMAL PROCEEDINGS
TO CIRCUIT COURT

WHEREAS, *under S.C. Code Ann.* (“Code”) §§ 62-1-302(d)(3) and (5), formal proceedings involving (1) title to property in which the Estate of a decedent asserts an interest and (2) an action in which there is a right to trial by jury and in which the amount in controversy is at least five thousand dollars (\$5,000.00) in value must be removed from the Probate Court to the Circuit Court to proceed *de novo*, on motion of a party, made not later than ten days after the date on which all responsive pleadings must be filed in the actions; and

WHEREAS, on December 6, 2024, Gerald Viglione Niesar, individually and as Personal Representative of the Estate of George Francis Niesar (“Gerald”) filed a Summons and Complaint (“Gerald Complaint”) to commence the second action captioned above, asserting causes of action for conversion, breach of fiduciary duty, liability as Executor de son tort, disgorgement, restitution, and the imposition of a constructive trust; and

1 / 

WHEREAS, in the above proceeding, less than ten days has elapsed from the date on which all responsive pleadings are required to filed; and

WHEREAS, previously on January 23, 2024, Christine Nemeth filed a Summons and Petition for Formal Testacy and Appointment ("Christine Petition for Formal Testacy and Appointment") to commence the first action captioned above, seeking probate of a will of Decedent and appointment of a general personal representative of Decedent's estate; and

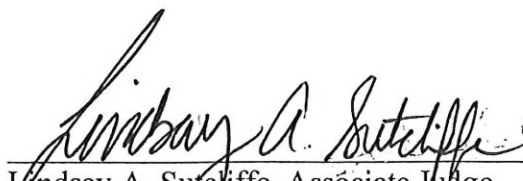
WHEREAS, under Code § 62-1-302(f), if an action described in § 62-1-302(d) is removed to the Circuit Court by motion of a party or by the Probate Court on its own motion, the Probate Court may, in its discretion, remove to the Circuit Court any other related matters which are before the Probate Court, if the Probate Court finds that the removal of such related matters would be in the best interest of the estate or in the interest of judicial economy; and

WHEREAS, this Court has determined to remove to the Circuit Court the actions commenced by the Gerald Complaint as well as the Christine Petition for Formal Testacy and Appointment, respectively, under Code §§ 62-1-302(d)(3) and (5); and

WHEREAS, this Court finds that these formal proceedings are sufficiently related, and it would be in the best interest of the estate and in the interest of judicial economy for all such actions to be litigated in the same judicial forum; now, therefore, pursuant to Code §§ 62-1-302(d)(3) and (5) and (f), it is

ORDERED that the two actions captioned and described above be and are hereby removed to the Circuit Court for proceedings *de novo*. This Probate Court retains continuing exclusive jurisdiction over the administration of this Estate.

AND IT IS SO ORDERED.


Lindsay A. Sutcliffe, Associate Judge
Beaufort County Probate Court

FILED
2025 APR 3 PM 3:06
Beaufort, South Carolina
APR 3 2025
PROBATE COURT
BEAUFORT COUNTY, SC

STATE OF SOUTH CAROLINA	)	IN THE PROBATE COURT
	)	FOURTEENTH JUDICIAL CIRCUIT
COUNTY OF BEAUFORT	)	
	)	CASE NO. 2025-CP-07-00873
IN THE MATTER OF:	)	
GEORGE FRANCIS NIESAR	)	
(Decedent)	)	DEFENDANT, CHRISTINE NEMETH'S
	)	RETURN MEMORANDUM TO
GERALD VIGLIONE NIESAR,	)	PLAINTIFF'S MEMORANDUM IN
Individually and as Personal Representative	)	OPPOSITION TO DEFENDANT'S
Of the Estate of Geroge Francis Niesar,	)	MOTION TO RECONSIDER
Plaintiff,	)	
Vs.	)	
	)	
CHRISTINE NEMETH,	)	
Defendant.	)	
_____	)	

The Defendant raised the issue that a conversion action “does not lie when alleging the exercise of domain or control over real property” *Hawkins v. City of Greenville*, 358 S.C. 280, 297, 594 S.E.2d 557, 566, in Defendant’s Amended Motion to Reconsider dated January 6, 2026.

The attached letter from Federal Judge David C. Norton dated October 8, 2024 was attached to and incorporated by reference in Defendant’s Return to Plaintiff’s Motion for Summary Judgment. That letter succinctly and with a great deal more learning than most attorneys have, stated the jurisdictional challenges that face this court in entertaining Plaintiff’s attorney drafted order granting summary judgment. Specifically, “If Gerald is entitled to a remedy in this case, the Probate Code appears to envision that he find the remedy in Probate Court.”

Defendant is not using “Rule 59(b) to present to the Court an issue the party could have raised prior to the judgment but did not.” In addition, it goes without saying that subject matter jurisdiction can be raised at any time by the parties or sua sponte by the court. The court can of its own initiative or upon motion may vacate an order granting summary judgment at any time when

it discovers that subject matter it lacking because it is void *ab initio* *Coon v. Coon*, 364 S.C. 563, 614 S.E.2d 616 (S.C. 2005).

WHEREFORE, it is respectfully requested that the court vacate the order granting summary judgment.

Beaufort County, SC
January 29, 2026

s/Russ Keep, III
Russ Keep, III
S.C. Bar #3321
Post Office Box 5877
Hilton Head Island, SC 29938
(P) 843-842-6268
(F) 843-785-8458
hhlaw@hargray.com
Attorney for the Defendant/
Christine Nemeth

STATE OF SOUTH CAROLINA

COUNTY OF BEAUFORT

)

)

)

IN THE COURT OF COMMON PLEAS

FOURTEENTH JUDICIAL CIRCUIT

IN THE MATTER OF:

GEORGE FRANCIS NIESAR

(Decedent)

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1

Case No. 2025-CP-07-00873

**PLAINTIFF’S MOTION TO
RECONSIDER AND
SUPPORTING MEMORANDUM**

GERALD VIGLIONE NIESAR,
Individually and as Personal Representative of
the Estate of George Francis Niesar,

Plaintiff,

VS.

CHRISTINE NEMETH,

Defendant.

Pursuant to Rule 59(e) of the South Carolina Rules of Civil Procedure, Plaintiff Gerald Viglione Niesar (“Plaintiff”), by and through his undersigned counsel, hereby submits this Motion to Reconsider the Court’s Order dated March 10, 2026 granting Defendant’s Motion to Reconsider the Court’s Final Order granting Plaintiff’s Motion for Summary Judgment.

BACKGROUND

On December 6, 2024, the Estate—acting through its Personal Representative—filed the present Complaint in the Probate Court, alleging against Nemeth causes of action for conversion, liability as *executor de son tort*, and constructive trust. Upon Plaintiff’s timely motion, the action was removed to this Court on April 3, 2025 by Associate Probate Judge Lindsay A. Sutcliffe pursuant to S.C. Code Ann. §§ 62-1-302(d)(3) and (5).

Plaintiff filed his Motion for Summary Judgment on May 6, 2025 and a supporting memorandum of law prior to the hearing, arguing there are no issues of fact material to his three

causes of action and that he is, accordingly, entitled to judgment as a matter of law under Rule 56 of the South Carolina Rules of Civil Procedure. Nemeth filed a return (“Return”)—two pages in length and devoid of legal citation—arguing (in undersigned counsel’s interpretation) that “this case should be dismissed” because: (i) Decedent’s and Nemeth’s joint tenancy with rights of survivorship were not severed by their divorce, and (ii) that the Estate does not own one-half of the property because “Christine was willed the property.” Notably, Nemeth’s Return did not take issue with any of the factual allegations upon which Plaintiff’s claims are based, instead only disputing (without any explanation or analysis) the legal consequences of those undisputed facts.

After a hearing, the Court entered its Final Order Granting Plaintiff’s Motion for Summary Judgment (“Final Order”) on December 31, 2025, granting summary judgment on all of Plaintiff’s claims and: (i) awarding damages to Plaintiff in the amount of \$443,000, plus pre- and post-judgment interest, (ii) reducing the value of any distribution or payment to which Nemeth may be entitled to receive from the Estate by \$443,000 pursuant to S.C. Code Ann. § 62-3-619, and (iii) imposing a constructive trust over \$443,000, an amount which represents the portion of the proceeds of the sale of real estate that belong to the Estate, plus the interest awarded.

On January 6, 2026, Nemeth filed a motion to reconsider (“Defendant’s Motion to Reconsider”) pursuant to Rule 59(e): (i) arguing it is unjust to award Plaintiff \$443,000 on a claim for an unpaid loan of \$24,000, (ii) asking “[w]ho does this combined total award of \$559,104.45 go to?” and (iii) concluding, “the Plaintiff was not damaged by more than \$24,000.” Again, Nemeth did not dispute the facts relied upon in Plaintiff’s motion for summary judgment and this Court’s Final Order.

The Court held a hearing on the Motion to Reconsider on January 14, 2026—more than ten (10) days after it entered the Final Order—during which the Court, *sua sponte*, raised concerns about the soundness of its Final Order, specifically questioning whether: (i) a claim for conversion can be based upon the proceeds of the sale of real property in South Carolina; (ii) the Circuit Court has subject matter jurisdiction to make a finding of liability as *executor de son tort*, and (iii) any issue of material fact exists as to Plaintiff’s claim for constructive trust. Because Nemeth never raised these issues—either at summary judgment or in her Motion to Reconsider—Plaintiff did not have a prior opportunity to address these points. The Court granted Plaintiff’s request to provide briefing on these questions.

On January 26, 2026, Plaintiff filed his Memorandum in Opposition to Defendant’s Motion to Reconsider, making five basic arguments: (1) the Court should not grant reconsideration on grounds Nemeth did not raise in response to Plaintiff’s Motion for Summary Judgment or in her Motion to Reconsider; (2) the arguments Nemeth did make in her Return to Plaintiff’s Motion for Summary Judgment and in her Motion to Reconsider do not warrant reversal of the Final Order; (3) the Court properly granted summary judgment on Plaintiff’s conversion claim because a claim for conversion can be based on the proceeds of the sale of real property and there is no genuine issue of any fact material to that claim; (4) the Court properly granted summary judgment on Plaintiff’s claim for liability as *executor de son tort* because the Circuit Court has subject matter jurisdiction to decide that claim and there is no genuine issue of any fact material to that claim; and (5) the Court properly granted summary judgment on

Plaintiff's claim for constructive trust because there is no genuine issue of any fact material to that claim.¹

On March 10, 2026, the Court entered an Order granting Defendant's Motion to Reconsider ("Order Granting Reconsideration"), stating, "the Court believes that there is a question of fact as to the Plaintiff's claims and reverses her December 31, 2025 order granting Summary Judgment on all causes of action." (Order Granting Reconsideration at 1). As to Plaintiff's claim for conversion, the Court held that "under South Carolina law, a cause of action for conversion cannot be sustained when the thing converted is an interest in real property." *Id.* The Court also held that it did not have subject matter jurisdiction over Plaintiff's claim for liability as *executor de son tort* because such a claim falls within the Probate Court's exclusive jurisdiction. *Id.* at 2. Lastly, the Court held that "there are questions of fact that need to be decided by the fact finder such that summary judgment is not appropriate on whether or not a constructive trust exists." *Id.*

ARGUMENT

As described in more detail below, Plaintiff respectfully contends the Court's Order Granting Reconsideration failed to address certain key issues and is incorrect as a matter of law in several respects. Accordingly, Plaintiff requests the Court reconsider its Order Granting Reconsideration.

I. The Court did not address the issue whether it had jurisdiction to grant reconsideration more than ten days after the Final Order was entered on grounds the Court raised *sua sponte*.

In his Memorandum in Opposition, Plaintiff raised the dispositive argument that the Court could not *sua sponte* reverse its Final Order on legal grounds that were available to but

¹ Plaintiff hereby incorporates by reference his Memorandum in Opposition in its entirety and continues to rely upon the arguments advanced therein.

never raised by Nemeth. Specifically, Plaintiff argued the Court could not reverse summary judgment on Plaintiff's conversion claim on the ground such a claim cannot be based on real property because Nemeth never raised that argument and the Court could not do so *sua sponte* more than ten (10) days after the Final Order was entered. However, in its Order Granting Reconsideration, the Court did not address this jurisdictional issue at all. For this reason, Plaintiff respectfully asks the Court to reconsider whether it had the subject matter jurisdiction to reverse its Final Order on a basis Nemeth did not present to the Court.

For the reasons described in Plaintiff's Memorandum in Opposition, the Court should find that it lacked jurisdiction to reverse summary judgment more than ten (10) days after entry of the Final Order on a legal basis raised by the Court on its own initiative, and that the Court's grant of summary judgment on Plaintiff's conversion claim must accordingly stand.² *See Leviner v. Sonoco Prods. Co.*, 339 S.C. 492, 530 S.E.2d 127 (2000) ("Under Rule 59(e), SCRCPP, the trial judge has only ten days from entry of judgment to alter or amend an earlier order on his own initiative absent a 'reservation' of jurisdiction in the form order."); *Doran v. Doran*, 288 S.C. 477, 343 S.E.2d 618 (1986) (in appeal decided under predecessor to SCRCPP, court held judge lost jurisdiction to issue supplemental order after end of term, and noted in footnote that under Rule 59(e), judge would have jurisdiction to alter or amend for a 10 day period after entry of judgment); *Ness v. Eckerd Corp.*, 350 S.C. 399, 402, 566 S.E.2d 193, 195 (Ct. App. 2002) ("Although [circuit courts] retain jurisdiction to alter judgments on their own initiative for ten days if a Rule 59(e), SCRCPP, motion is filed, after ten days that jurisdiction is lost."); *Heins v.*

² Plaintiff acknowledges and agrees that the issue of lack of subject matter jurisdiction may be raised at any time and that the Court was free to determine it lacked subject matter jurisdiction over the claim for *executor de son tort* in the procedural posture in which it did, although, as discussed below, Plaintiff continues to disagree with and hereby seeks reconsideration of the Court's conclusion on that issue.

Heins, 344 S.C. 146, 543 S.E.2d 224 (Ct. App. 2001) (holding family court judge lacked jurisdiction to *sua sponte* alter a judgment more than ten days after it was issued); *Fairfield 132 Smith St., LLC v. Surface*, Op. No. 2025-UP-062, 2025 WL 627575, at *1 (S.C. Ct. App. filed Feb. 26, 2025) (circuit court granted summary judgment to plaintiff in a form order without indicating formal order would follow; defendants filed timely motions to reconsider, which the circuit court denied without reservation; over two months later, circuit court issued a full written order with findings of fact and awarding damages; court of appeals vacated the full written order because “the circuit court’s jurisdiction ended ten days after it denied Appellants’ motions to reconsider”).

In the event the Court determines it did possess this jurisdiction, however, Plaintiff asks the Court to state its rationale and its conclusions of law for the record.

II. The Court did not address the issue whether a conversion claim can be based on the proceeds of the sale of real property.

In his Memorandum in Opposition, Plaintiff acknowledged the rule of law that a conversion action “does not lie when alleging the exercise of dominion or control over real property” (See Memo. in Opp. at 9) (citing *Hawkins v. City of Greenville*, 358 S.C. 280, 297, 594 S.E.2d 557, 566 (Ct. App. 2004)) but clarified the conversion claim here is not over real property but, rather, the *proceeds of the sale* of real property—a factually and legally distinct theory of liability. However, in its Order Granting Reconsideration, the Court did not address this distinction and, instead, held only that “a cause of action for conversion cannot be sustained when the thing converted is an interest in real property”—a point of law with which Plaintiff agrees but argues is inapplicable. (Order Granting Reconsideration at 1) (citing *Equitable Tr. Co. of Columbia v. Columbia Nat’l Bank*, 142 S.E. 811, 813-14 (S.C. 1928)).

Plaintiff's argument is that his claim is not a claim for the conversion of real property—it is a claim for the conversion of the proceeds of the sale of real property, which, as multiple other jurisdictions have held, is viable. *Alisa A. Peskin-Shepherd, PLLC v. Blume*, 974 N.W.2d 835, 836 (Mich. 2022) (“It is true that proceeds of a real-estate sale are personal property and thus may be subject to conversion.”); *Asdourian v. Konstantin*, 93 F. Supp. 2d 296, 299 (E.D.N.Y. 2000) (“As the conversion cause of action concerned the proceeds of the sale of properties and not the conversion of real property itself, the Court denies the defendant's motion for judgment as a matter of law with regard to the contention that Blue Chip may not recover in conversion for the wrongful sale of real property.”); *Congram v. Giella*, No. 91 CIV. 1134 (LMM), 1992 WL 349845, at *6 (S.D.N.Y. Nov. 10, 1992) (distinguishing between a claim for conversion of real property and a claim for the proceeds from the sale of real property); *Stewart v. Young*, 226 N.W. 222, 224 (Mich. 1929) (holding that when real estate is sold without permission of all parties involved, “such proceeds are not real estate, but personal property”).

Accordingly, Plaintiff respectfully asks the Court to address the specific issue whether a claim for conversion can be based on the proceeds of the sale of real property and to find, for the reasons discussed in Plaintiff's Memorandum in Opposition, that it can.

III. The Court did not address the issue whether Plaintiff's claim for liability as *executor de son tort* falls within S.C. Code Ann. §§ 62-1-302(d)(3) and (5).

In his Memorandum in Opposition, Plaintiff contended the Circuit Court possesses subject matter jurisdiction to find a person liable as an *executor de son tort*, specifically arguing there is nothing in the Probate Code that deprives the Circuit Court of jurisdiction over this claim and that it falls squarely within S.C. Code Ann. §§ 62-1-302(d)(3) and (5), which provide removal jurisdiction to the Circuit Court over “actions to try title concerning property in which the estate of a decedent or protected person asserts an interest” and “actions in which a party has

a right to trial by jury and which involve an amount in controversy of at least five thousand dollars in value.” In its Order Granting Reconsideration, however, the Court held that “the probate court has exclusive original jurisdiction over all subject matter related to estates of decedents, including actions involving estate property and related disputes, unless the Code specifically provides otherwise” (a point with which Plaintiff agrees) but did not explain why the claim in this case for liability as *executor de son tort* does not fall within the Circuit Court’s removal jurisdiction under S.C. Code Ann. §§ 62-1-302(d)(3) and (5).³ Therefore, Plaintiff respectfully requests the Court reconsider this issue, find that it does have subject matter jurisdiction over this claim for the reasons described in his Memorandum in Opposition, and allow its grant of summary judgment to stand.

IV. The Court did not state what issues of fact exist with respect to Plaintiff’s claim for a constructive trust.

Last, in his Memorandum in Opposition, Plaintiff explained in detail why there are no disputes as to any fact material to his claim for a constructive trust. In its Order Granting Reconsideration, the Court held that “there are questions of fact that need to be decided by the fact finder such that summary judgment is not appropriate on whether or not a constructive trust exists.” However, the Court did not explain what these factual questions are. As previously argued, Nemeth has done nothing to create an issue of fact on this claim, which is properly entitled to judgment as a matter of law. Accordingly, Plaintiff asks the Court to reconsider this

³ Plaintiff also wishes to point out that the case the Court cited, *Judy v. Judy*, 393 S.C. 160, 712 S.E.2d 408 (2011), involved only the question whether the Probate Court had jurisdiction over a claim for liability as *executor de son tort* and did not present the question whether the Circuit Court had jurisdiction. Plaintiff agrees that the Probate Court has exclusive *original* jurisdiction over these claims under S.C. Code Ann. § 62-1-302(a) but contends such a claim can be removed to the Circuit Court under S.C. Code Ann. §§ 62-1-302(d)(3) and (5), as was done here.

issue and, in the event the Court decides there are issues of material fact, that the Court describe what those factual issues are for the benefit of the record.

CONCLUSION

Based on the above, Plaintiff respectfully asks the Court to reconsider its Order Granting Reconsideration, find the Court properly granted Plaintiff's Motion for Summary Judgment, and—for both procedural and substantive reasons—requests the Court allow its Final Order to stand. Plaintiff also respectfully asks the Court to specifically address the issues raised above to complete the record.

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Charleston, South Carolina
March 18, 2026

STATE OF SOUTH CAROLINA	)	IN THE PROBATE COURT
	)	FOURTEENTH JUDICIAL CIRCUIT
COUNTY OF BEAUFORT	)	
	)	CASE NO. 2025-CP-07-00873
IN THE MATTER OF:	)	
GEORGE FRANCIS NIESAR	)	
(Decedent)	)	DEFENDANT, CHRISTINE NEMETH'S
	)	REPLY TO PLAINTIFF'S
GERALD VIGLIONE NIESAR,	)	MOTION TO RECONSIDER
Individually and as Personal Representative)		AND SUPPORTING
Of the Estate of George Francis Niesar,	)	MEMORANDUM
Plaintiff,	)	
Vs.	)	
	)	
CHRISTINE NEMETH,	)	
Defendant.	)	
_____	)	

TO: JOHN P. BOZEMAN, ESQ., AND ROBERT H. BRUNSON, ESQ., ATTORNEYS FOR
GERALD VIGLIONE NIESAR, INDIVIDUALLY AND AS PERSONAL REPRESENTATIVE
OF THE ESTATE OF GEORGE FRANCIS NIESAR:

Jurisdiction

“Before a court can determine a right it must have the power to act,” South Carolina Law Review, Marcellus S. Whaley Vol. 11, Issue 5, page 5 Spring 1959.

“Jurisdiction of the subject matter cannot be waived,” *Riddle v. Reese* (1898), 53 S.C. 198, 31 S.E. 222, at page 202: “Indeed, it may be raised by this Court without any motion from either of the parties.” “It is true that jurisdiction of the person may be waived” but not subject matter jurisdiction, *Lowery v. Thompson*, 25 S.C. 416, 1 S.E. 141 (1886).

This court wisely ruled that it had no jurisdiction to hear a cause of action for conversion when the thing converted is an interest in real property *Equitable Trust Co. of Columbia v. Columbia Nat’l Bank*, 145 S.C. 91, 142 S.E. 811, 813-814 (SC 1928).

Additionally, the cause of action for liability as executor de son tort, pursuant to S.C. Code Ann. § 62-1-302(a) the probate court has exclusive jurisdiction over all subject matter related to

estates of decedents, *Judy v. Judy*, 393 S.C. 160, 171 S.E.2d 408 (S.C. 2011). This being so, this case should be transferred or remanded to the probate court where it belongs.

Beaufort County, SC
March 26, 2026

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STATE OF SOUTH CAROLINA
COUNTY OF BEAUFORT
IN THE COURT OF COMMON PLEAS
C.A. NO.: 2025CP0700873

GERALD VIGLIONE NIESAR, et al,

PLAINTIFF(S),

VS.

CHRISTINE NEMETH,

DEFENDANT.

H E A R I N G
BEFORE THE HONORABLE CARMEN TEVIS MULLEN

DATE: OCTOBER 28, 2025

LOCATION: SOUTH CAROLINA CIRCUIT COURT 14TH

TRANSCRIBER: PAM GRAY

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INDEX

PROCEEDINGS	4
CERTIFICATE OF REPORTER	16

EXHIBITS

(NONE MARKED)

(THIS TRANSCRIPT MAY CONTAIN QUOTED MATERIAL. SUCH MATERIAL IS
REPRODUCED AS READ OR QUOTED BY THE SPEAKER.)

P R O C E E D I N G S

THE COURT: All right, you're like so this is in a case of 2025 CP 070073. It's Niesar, N-i-e-s-a-r versus Nemeth. This is Gerald Niglione Niesar's motion for summary judgment, as well as a Niesar's motion to (indiscernible), is that correct?

MR. BRUNSON: (Inaudible) has been resolved.

THE COURT: Okay.

MR. BRUNSON: It's just our motion for summary judgement.

THE COURT: Okay. Perfect. All right. This is your motion (inaudible).

MR. BRUNSON: Thank you. Good morning, Your Honor. This motion, this case arises out of the death of a man named George Niesar (inaudible). And his estate now has a personal representative his brother, Jerry Niesar, who is also a creditor the estate. And he had brought (indiscernible) against Christine Nemeth, who was George Niesar, the decedent's prior wife. They were divorced. George and Christine, they married in 1989. During their marriage, they bought a piece of -- a piece of property that they held jointly with price of survivorship at 1105 Bluffton Parkway in Bluffton.

Then Christine filed for divorce in May of 2007. Final

1 order of divorce was issued July of 2007. And the order of
2 divorce does not mention the property that they own jointly
3 with rights of survivorship. There's no (indiscernible)
4 agreement that divided the property between George and
5 Christine. So fast forward to 2002 -- September 3rd of 2002,
6 George and Christine enter into a contract to sell this
7 property to the Beaufort County School District for \$886,000.
8 Each signed (indiscernible) capacities in the contract of
9 sale.

10 October 7th comes around and George has become deathly
11 ill at this point, and so Christine informs the school
12 district that George doesn't have capacity, but she sends
13 them a picture of the power of attorney (indiscernible) years
14 previously. And she offered that she would close on the deal
15 using that power of attorney. George died later that day
16 (inaudible). And then on October the 12th, Christine
17 submitted an affidavit that requested the school district,
18 indicating that the power of attorney was (indiscernible) of
19 course, that George was still alive, even though he died on
20 October 7th, and that his power of attorney terminated
21 (indiscernible).

22 Sale went through on October 31, 2002. Christine took
23 all of the sales proceedings, \$886,000 for herself, did not
24 provide any for the estate of George, and then on November
25 the 3rd, after the sale of (indiscernible), filed the death

1 certificate, which is necessary where you do have licensed
2 survivorship in order to settle that, but it's kind of a moot
3 point here. So there aren't any material facts at issue.
4 Both sides will agree that there are no issues at all in
5 dispute in this case. It's a pure question of law. We have
6 three causes of action: one for conversions, one for
7 Christine's liability as executor (indiscernible), and also a
8 constructive (indiscernible).

9 First, the conversion plan, as you know, conversion is
10 the unauthorized assumption and exercise of the right of
11 ownership over goods or personal (indiscernible) belonging to
12 another to the alteration of the condition or to the
13 exclusion of the owner's rights. There are three elements.
14 Number one, the plan must have an interest in the thing that
15 was converted at the time of the conversion. Number two,
16 Defendant converted the property to her own use. And number
17 three, the conversion was without the Plaintiff's permission.

18 Let's look at element number one. The question being,
19 did the estate have an interest in the proceeds from sale of
20 that property. In fact, because the joint (indiscernible)
21 with rights of survivorship severed upon the divorce, the
22 estate did have a half interest in those proceeds. There are
23 two statutes, one in the Property and Conveyances Code,
24 Section 27-7-40(a) (indiscernible), and it provides any joint
25 tenancy in real estate held by husband and wife with no joint

1 tenants -- no other joint tenants, is severed upon the filing
2 of an order or decree dissolving their marriage, invest
3 interest in both parties as tenants in common, which of
4 course means no rights of survivorship.

5 Then in the Probate Code, there is Section 62-2-
6 507(c)(2), which provides as follows: divorce or annulment of
7 a marriage severs the interests of the former spouses and
8 property held by them at the time of the divorce or annulment
9 as joint tenants with the right of survivorship, so that the
10 share of the decedent passes as the decedent's property, and
11 the former spouse has no rights to survivorship. So
12 Christine admits that they got divorced. She admits that
13 there was (indiscernible) of the divorce as to the
14 disposition of that jointly held piece of property, and those
15 two facts alone are sufficient to sever her rights of
16 survivorship, and to therefore imbue the estate with a right
17 to (indiscernible) in the proceeds from the sale of property.

18 Now Christine's argument in her court brief responding
19 to our motion basically says that our argument is nonsense,
20 quoting as George named Christine sole heir in his 2018, last
21 will and testament. Now there's no explanation there as to
22 why the fact that George named Christine as his sole
23 beneficiary in the will, how that would undo or affect the
24 severance of the joint rights of survivorship, which happened
25 in 2007, when the parties were divorced. The brief on behalf

1 of Christine and George, the two statutes that cover the
2 severance of the joint (indiscernible) with rights of
3 survivorship.

4 And in any event, even if the will had some effect here,
5 which I don't know what it would have, the personal
6 representative of the estate had superior rights to
7 (indiscernible) for the sake of creditors, and of course, my
8 client (indiscernible) is a creditor of the estate who has
9 not yet received his payment. So the first element is
10 clearly met. Second element, she converted the property to
11 her own use. She sold the property, the real estate, for
12 886,000 probably using George's power of attorney
13 (indiscernible).

14 And then she collected the full purchase price of the
15 sale, kept it for herself alone without distributing any of
16 the proceeds to the estate. And then there's really no
17 factual dispute about that. So for those reasons, The Court
18 should enter summary judgment in our favor on conversion.
19 And second claim is executor de son tort. It's not one that
20 I've dealt with a whole lot.

21 THE COURT: Me either.

22 MR. BRUNSON: But it's in there. It's in the probate
23 code, and it provides that any person who obtains, proceeds,
24 or possesses property of whatever (indiscernible) belonging
25 to the decedent by means of fraud or without paying valuable

1 consideration equivalent to the value of the property, shall
2 be charged and chargeable as the executor of his own wrong
3 (inaudible) executor de son tort, with respect to the goods
4 and debts. In such cases, it provides the value of the
5 property is charged to the executor de son tort, which can be
6 deducted from any distribution or payment of any planning or
7 commission to which the executor de son tort is entitled to
8 receive from the estate.

9 How do we fit within that statute? Well, Christine is a
10 person who obtained property -- the proceeds from the sale of
11 real estate by means of fraud and without paying valuable
12 consideration, and therefore she's charged a chargeable
13 executor of her own wrong, meaning that any distribution to
14 her from the estate would be withheld. And, of course, back
15 to the basic facts, (indiscernible) was severed by the
16 divorce when George died. His half interest in the property
17 did not invest in Christine, but remained subject to the
18 administration of the estate.

19 Christine then (indiscernible) the proceeds of the sales
20 wrongfully, didn't pay any consideration to the estate for
21 that one half interest in the property or for George's right
22 when the contract sell the property, and therefore the Judge
23 to grant summary judgment on our claim for executor de son
24 tort.

25 Finally, Your Honor, we also plead for the remedy of

1 constructed trust, which as you know is an operation of law
2 designed to remedy an unjust (indiscernible) that arises
3 whenever party is obtained (indiscernible) does not equitably
4 belong to him in which he cannot in good conscience retain or
5 withhold from another who is beneficially entitled to it, as
6 where money has been paid by accident, mistake of fact, or
7 fraud, or has been acquired through breach of trust or
8 violation of the shared duty. Here, there's no question that
9 Christine, who was named as personal representative in the
10 will that she eventually submitted for probate after my
11 client opened the estate as a creditor, so in that position
12 she owed fiduciary duties to the creditors of the estate as
13 well as any other beneficiaries.

14 And rather than looking after their interest when she
15 had the proceeds to sell that property, which would pretty
16 much the only asset in the estate, and I understand it, she
17 kept that money for herself, apparently with no intention of
18 ever even (inaudible). So, for that reason, we would ask
19 that you all (indiscernible) trust in our favor. And we will
20 also be seeking (inaudible). Thank you.

21 THE COURT: Mr. Keep, good morning.

22 MR. KEEP: Good morning, Judge Mullen. I noticed Your
23 Honor's (inaudible). I must say it doesn't do you justice.

24 THE COURT: (Inaudible)

25 MR. KEEP: I'll -- let me begin by saying that the

1 brother from California, who is the Plaintiff here, he is
2 owed 24,000, he claims. He claims he has lent his brother
3 24,000. That makes him a creditor of the estate at best.
4 There are no creditors for the estate, claim or otherwise.
5 Christine, I need to fill in a few facts. While they were
6 divorced, Christine (indiscernible) lived with George. They
7 lived together for many years, even though they were
8 divorced, and she was quite a bit older. She was -- she is a
9 French woman, and while she speaks fairly fluent English, she
10 doesn't completely understand our legal system and our
11 legalism.

12 Let me put it that way -- which is why she didn't
13 understand about the power of attorney expiring on the death,
14 I mean, there's a lot of lawyers (indiscernible) in our
15 country. In the will, which was dated December 17, 2018, and
16 that is attached to my return, and I have a copy here for The
17 Court in addition. Would Your Honor, like (indiscernible)

18 THE COURT: (Inaudible)

19 MR. KEEP: Excellent. She not only was executor -- name
20 executor (indiscernible), but she's the sole heir -- sole
21 heir, no other heir of this property, and his tangibles and
22 (indiscernible). The deceased, her ex-husband, left nothing
23 to this brother from California. So at the very best, this
24 brother, who is the Plaintiff hearing, maybe owed \$24,000.
25 That's it. That's the extent of his claim. I ask The Court

1 to consider that if they were successful in this motion
2 today, that she would give back half the money, 880,000 or
3 whatever, and then she would get it back because she's sole
4 heir, perhaps minus 24,000.

5 Now, she has entertained the course of action of giving
6 him 24,000 but instead he filed suit against her in Federal
7 Court. Imagine that. It's a probate case. And not only
8 didn't file in Probate Court, the Federal Court judge, Judge
9 David Borton, kicked the case back unceremoniously but also
10 informally. He kicked it back to family court by letter, not
11 an order. It's an extraordinary order of (indiscernible) an
12 extraordinary letter from the judge. The judge states that
13 in a recent filing, (indiscernible), named Gerald, theorized
14 for the first time that Nemeth's allegedly unlawful removal
15 of the property from the estate after George's death gave
16 rise to a fiduciary relationship between Nemeth and the
17 estate.

18 In support of this argument -- and then he cited the
19 section of South Carolina Probate Code defining the concept
20 of executor de son tort and an 1889 case. He concludes that
21 if Gerald is entitled to a remedy in this case, the probate
22 code appears to envision that he find the remedy in probate.
23 This is a letter to Judge Gavlin in Probate Court. So it was
24 remanded by letter. Now the Plaintiff didn't seem to accept
25 that if he's entitled to a remedy in this case, the Probate

1 Court appears to envision that we find that remedy in Probate
2 Court, because he's filed it now here in your court, not in
3 Probate Court for this case alone.

4 So I don't think really the Plaintiff has standing
5 because he is not an heir and he's in the wrong court for the
6 second time. It cost a small fortune to get this case out of
7 Federal Court, even though it's somewhat informally by
8 letter. Took a lot of time and trouble. So here we are.
9 Again, maybe he is owed 24,000. And if he is, he's going to
10 be paying 24,000 and she'll pay it. But Gerald ---

11 THE COURT: He's asking for prejudgment interest as
12 well.

13 MR. KEEP: Well, ought to be offset by all the attorney
14 fees to get it out of Probate Court. Again, Christine is the
15 sole heiress -- so -- sole heir -- sole heiress. This is
16 circuitous. She would have to give back half the money and
17 then get it under the will. The Plaintiff has even filed a
18 lis pendens against my client's house in North Carolina,
19 saying it was purchased, which it was -- purchased for the
20 money from the sale of the house that the deceased and she
21 had sold during their -- his lifetime. It hadn't been
22 consummated, but did sign the contract.

23 This motion for summary judgment should be denied and
24 sent back once again, Your Honor, to Probate Court where it
25 so richly belongs to (indiscernible). The federal judge is

1 exactly right. There's a remedy here, if there's a remedy
2 it's in Probate Court and (indiscernible) probably getting
3 (indiscernible) if they're completely -- completely
4 successful. Thank you, Your Honor.

5 THE COURT: Thank you. Mr. Brunson, (indiscernible)
6 respond?

7 MR. BRUNSON: I guess so. First of all, there's no
8 rebuttal to the legal argument with this so I don't think
9 I'll repeat that. Probate Court, we did file in Probate
10 Court and remained in Circuit Court which we were entitled to
11 do under the removal (inaudible) lots of things are exclusive
12 jurisdiction in Probate Court but can be removed and this is
13 one of those. As far as the issue of it's just \$24,000, I
14 mean gosh, she could have paid -- she could have opened the
15 (indiscernible) put the money in the estate, paid him
16 \$24,000, closed the estate, take the rest of her money.

17 That's the way legal systems work to protect creditors,
18 such as Jerry (indiscernible). But she chose not to do that.
19 And she has chosen to drag litigation out through Federal
20 Court, making very (indiscernible) arguments throughout. And
21 now here we are, hopefully at the end of the road, where we
22 can get a judgment and move forward. But be clear, the
23 Probate Court will have the opportunity to pay attorney's
24 fees to me for representing the interest of the estate
25 throughout this process of not just \$24,000. And in addition

1 to that, under the executor de son tort (indiscernible), she
2 doesn't get her inheritance from -- it's what she took from
3 the estate without paying her. And that will become an asset
4 of the estate, which I think would then go to the estate
5 heir. So it's not a case about \$24,000. It could have been,
6 but it's not.

7 THE COURT: All right. Mr. Brunson, will you give me a
8 proposed order in ten days?

9 MR. BRUNSON: Yes, Your Honor.

10 THE COURT: And make sure you share it with Mr. Keep.

11 MR. BRUNSON: Sure.

12 THE COURT: (Inaudible) Okay. Thank you.

13 MR. BRUNSON: Thank you, Your Honor.

14
15
16
17
18
19
20
21
22
23 (THERE BEING NOTHING FURTHER, THIS HEARING CONCLUDED.)
24
25

CERTIFICATE OF TRANSCRIBER

I, Pam Gray, a court-approved transcriber, do hereby certify that the foregoing is a true, accurate and complete Transcript of Record of the proceedings had and evidence introduced in the trial of the captioned case, relative to appeal, in the Circuit Court for Beaufort County, South Carolina, on the 28th day of October, 2025.

I do further certify that I am neither of kin, counsel, nor interest to any party hereto.

June 15, 2026

Pam Gray

Pam Gray
Certified Transcriber

STATE OF SOUTH CAROLINA
COUNTY OF BEAUFORT
IN THE COURT OF COMMON PLEAS
C.A. NO.: 2025CP0700873

GERALD VIGLIONE NIESAR, et al,

PLAINTIFF(S),

VS.

CHRISTINE NEMETH,

DEFENDANT.

H E A R I N G
BEFORE THE HONORABLE CARMEN TEVIS MULLEN

DATE: JANUARY 14, 2026

LOCATION: SOUTH CAROLINA CIRCUIT COURT 14TH

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REPRESENTING THE PLAINTIFF(S)

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KEEP LAW OFFICE
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HILTON HEAD ISLAND, SOUTH CAROLINA 29938

REPRESENTING THE DEFENDANT

INDEX

PROCEEDINGS	4
CERTIFICATE OF REPORTER	20

EXHIBITS

(NONE MARKED)

(THIS TRANSCRIPT MAY CONTAIN QUOTED MATERIAL. SUCH MATERIAL IS
REPRODUCED AS READ OR QUOTED BY THE SPEAKER.)

1 P R O C E E D I N G S

2 THE COURT: Good morning. All right, so Mr. Bozeman,
3 are you here on behalf of Mr. Brunson?

4 MR. BOZEMAN: That's correct. Yes, Robert has
5 depositions all day today, so I'm covering today.

6 THE COURT: Okay. Okay. So Mr. Keep, this is your
7 motion to reconsider my granting of summary judgment on all
8 three causes of action in the case entitled -- I know it's
9 Niesar, or I'm sorry -- could you just go ahead and put the
10 caption on? I don't have it right in front of me,
11 Catherine.

12 CLERK: Yes, ma'am. I can do it. This is in the matter
13 of George Niesar -- so this is Gerald Niesar versus Christine
14 Nemeth. This is 2025CP0700873 and this is Defendant's motion
15 to reconsider.

16 THE COURT: Okay. Mr. Keep, whenever you're ready, sir.

17 MR. KEEP: Good, I'll be nice and brief too. The -- the
18 motion for summary judgment was granted to George Francis
19 Niesar, strike his brother. The -- the defendant, Christine,
20 is the sole heir by will of the decedent. The Plaintiff, who
21 is the personal representative of the estate of George, his
22 name is Gerald. He claims he's owed 24,000 by his brother.
23 And the Plaintiff is not an heir to the estate. He is merely
24 a personal representative and a claimant for his unsecured
25 24,000. Despite his claim being 24,000, you know, which is

1 fine if believed or if proven. Nonetheless The Court has
2 awarded him \$443,000 plus more.

3 THE COURT: Mr. Keep, he didn't award him that. He
4 awarded the estate the money, and he is just a claimant. So,
5 it would be the heirs of the estate that would have an issue.
6 No one awarded anything to Gerald himself. He's the personal
7 representative of the estate, and my understanding is he's
8 dropped any personal claims in this lawsuit; is that correct,
9 Mr. Bozeman?

10 MR. BOZEMAN: That's correct.

11 MR. KEEP: He has dropped the claim for 24,000?

12 MR. BOZEMAN: Well, this -- this -- this motion for
13 summary judgment, Your Honor, you're absolutely correct. I
14 mean, this just doesn't involve my client's creditor's claim.
15 This -- this -- this -- the claims at issue here are solely
16 the estate's claims against the Defendant, and it has nothing
17 to do with my client, Gerald's, individual creditor's claim
18 against the estate. So, you know, the points that Mr. Keep
19 is making in his motion to reconsider are entirely
20 non-responsive to the points of law that are at issue in the
21 motion for summary judgment and in the order granting the
22 motion for summary judgment.

23 MR. KEEP: Well, Judge, let me rephrase this then. Does
24 it really seem correct that my client, the sole heir, would
25 have to sell her house that she has bought with the money

1 that she inherited and pay it back to the estate, and then
2 get it all back minus this 24,000? I mean, wouldn't it be
3 better just that my client owes 24,000 to the estate? I
4 mean, this seems like just going around robbing ---

5 THE COURT: There's other heirs, potentially to the
6 statement. I understand that you have produced in Probate
7 Court a will of 2018, that says that she is the sole heir,
8 but I also understand that George had two other children from
9 a first marriage who would potentially be heirs to the estate
10 if it was found that she was not, and that wasn't a good
11 will. So, I mean, you can't just go ahead and assume and
12 jump through all of the hoops, Mr. Keep. You've got to go
13 through and actually look at the claims. Right now, I'm just
14 dealing with a claim that obviously one was brought in
15 Probate Court.

16 Obviously, it was in Federal Court first. It was put
17 down to Probate Court. I'm sorry, not put down, but it was -
18 - another one was done in Probate Court, and now we've got
19 another one in Circuit Court all over the same issues. So,
20 my concern is this -- and I'm going to go ahead and put it
21 out there, Mr. Bozeman. I've gone through really carefully
22 again, and looked at this. Obviously, granting summary
23 judgment usually is a pretty drastic remedy.

24 I have some concerns I will tell you right now about
25 granting summary judgment on the claim of executor de son

1 tort. Just because, as I read the statute, there is not
2 concurrent jurisdiction between Probate Court and Circuit
3 Court as to that cause of action, that that is something just
4 for a Probate Court to determine. So I'm concerned, looking
5 at the cases that Judge Norton cited in his order, Marshall
6 v. Marshall, and some other ones -- I am concerned that it
7 looks like in reading the statute, the probate statute, it
8 says the probate judge. It doesn't even say the circuit
9 court judge.

10 And as you and I both know, while there is some
11 concurrent jurisdiction between Circuit Court and Probate
12 Court, it's not over everything. And I'm concerned about
13 that. I'm going to tell you that's first off. Secondly, I'm
14 also concerned on the conversion cause of action. And I know
15 Mr. Brunson argued this extensively to me, and I liked his
16 reasoning and thought. However, I'm a bit concerned because
17 there is no South Carolina case law that states that you
18 can't convert real property, even though I know Mr. Brunson's
19 argument was that she sold the property, she netted \$886,000,
20 and that because it was money and not property. That was his
21 argument.

22 But I went back and looked, and I agree with Judge
23 Norton. I don't see any case law at all that says that that
24 would necessarily allow a conversion claim without some other
25 court telling me it's okay. I think in his order you can see

1 it. He actually cited another (indiscernible), and I want to
2 say -- I can't remember if it was Maryland or what it was.
3 I'm trying to think. But long story short, he couldn't find
4 any other jurisdiction, and neither can I, that allows a
5 conversion claim when we're talking about real property, even
6 though, like I said, I fully understand Mr. Brunson's
7 argument that this was money received from real property, and
8 it wasn't actual real property.

9 But I'm gonna tell you, I have another concern about
10 that as well. Mr. Keep, I will also say this. I agree with
11 Mr. Bozeman that your motion was completely unresponsive to
12 what the order was. And additionally, when you were before
13 me on the summary judgment motion, you included two exhibits.
14 One was a letter from Judge Norton, I'm sorry, from George
15 Norton, yes, dated October 8, 2024, to Judge Galvin. And the
16 other one was this -- this will. What you did not include in
17 any of this was any type of affidavit from your client
18 contesting questions of fact or arguing issues of fact, which
19 is what you're required to do in a summary judgment motion.
20 If you do believe that there's some type of question of fact.

21 I can tell you, had you done that, the constructive
22 trust claim, I wouldn't have granted on that either.
23 Obviously, it's an equitable claim. Let me ask you this.
24 So, Mr. Bozeman, has there been a jury trial requested in
25 this case, or is this simply non-jury in Circuit Court?

1 MR. BOZEMAN: Let me pull up the complaint. Sorry.

2 MR. KEEP: Would you say if I submitted an affidavit for
3 the motion for something in response to that motion for
4 summary judgment?

5 MR. BOZEMAN: Yes, there's a jury demand in the
6 complaint.

7 THE COURT: There is? Obviously, that would be for the
8 conversion cause of actions for the tort claim; is that
9 correct?

10 MR. BOZEMAN: Correct.

11 THE COURT: Okay. Obviously the constructive trust is
12 an equitable claim. I just will say this. This case has a
13 very tortured procedural history. I know you know that
14 Mr. Bozeman. I know, Mr. Keep, you've argued it up in
15 Federal Court. You've been in front of Judge Galvin, you've
16 been in front of me now. Mr. Keep, I don't see that you
17 filed an affidavit in any response to their motion for
18 summary judgment.

19 MR. KEEP: I just don't remember what I filed. I filed
20 ---

21 THE COURT: I can tell you. Your response had just two
22 exhibits attached. And like I said, the first one was this
23 October 8, 2024, letter from Judge Norton to Judge Galvin,
24 and the other one was this will that your client purports is
25 George's last will that wasn't probated within the year in

1 Probate Court. Those are the only two documents I see.

2 Catherine, do you see that he filed anything else?

3 MR. KEEP: I filed a return, Your Honor.

4 THE COURT: You filed a return, but a return is not an
5 affidavit. I need something that puts questions of fact in
6 the record.

7 MR. KEEP: Your Honor.

8 THE COURT: And I'm going to assume no depositions have
9 been taken in this case, or have there been?

10 MR. KEEP: None. None, Your Honor. Judge, my client
11 just doesn't know anything about this case. She -- there's
12 nothing she could put in an affidavit. She didn't -- was not
13 aware of the -- of the loan of 24,000. No demand was made on
14 her to pay the 24,000. So instead of just saying, where's my
15 24,000, we've gone through all these different courts, you
16 know, running through a lot of attorney fees. I'm not even
17 charging my client I feel so sorry for her. I mean, she just
18 wasn't aware of this. She doesn't know anything about -- she
19 would have zero to put in an affidavit.

20 I realize, Your Honor, that in some for a motion for
21 summary judgment, the Plaintiff has to put up, or should put
22 up, an affidavit, but the rule does not specifically say that
23 affidavits even have to be submitted, it says or otherwise.
24 So ---

25 THE COURT: Mr. Keep, you've got to have some question

1 of fact. If it can be by affidavit, it's typically the
2 easiest way. It can be shown by deposition testimony. It
3 can be shown by documents showing that there is a question of
4 fact. The problem is you didn't give me anything.

5 MR. KEEP: Well, Judge, I gave - I gave The Court the
6 last will and testament making her sole heir. And, I mean,
7 that answers, I think, ought to answer a lot of questions.

8 THE COURT: Well, obviously, -- Mr. Bozeman, correct me
9 if I'm wrong, that hasn't been probated yet, correct?

10 MR. BOZEMAN: I believe that's correct, yes. And also
11 that will is not a fact that's material to these claims. So
12 even if it is valid and it's probated, it doesn't affect the
13 validity of these claims because the property has to go
14 through the estate first. It cannot go directly to
15 Christine, the defendant.

16 THE COURT: Yeah.

17 MR. BOZEMAN: And, Your Honor ---

18 THE COURT: Yes?

19 MR. BOZEMAN: --- I would respectfully submit that the
20 Defendant, that you know, This Court, in deciding this motion
21 to reconsider, is confined to the arguments put forth by the
22 Defendant in -- in the Defendant's motion. So which -- which
23 does not meet the particularity standard set forth in Rule
24 7(b)(1) of the South Carolina Rules of Civil Procedure, which
25 require a motion to state with particularity the grounds

1 therefore, and to set forth the relief or order sought.
2 Critically, this motion does not even seek any relief.
3 There's no prayer for relief.

4 It just makes a couple of statements, asks a question
5 that's completely misguided about where the money is going to
6 go to. Obviously it's to the estate, but doesn't actually
7 ask for any relief, so it fails to meet the Rule 7(b)
8 particularity standard and should be denied on that basis
9 alone.

10 MR. KEEP: Your Honor, wouldn't that be more proper that
11 he had raised that with me directly as a response, if that
12 was really a serious argument.

13 MR. BOZEMAN: This is the first opportunity we've had to
14 address this motion to reconsider, Your Honor. And the rule
15 -- the rules say what the rules say. This just simply
16 doesn't meet the standard for a motion under Rule Seven. And
17 the time now has passed, the ten day time period to file a
18 Rule 50(9)(e) motion is now passed. So I would respectfully
19 submit that the motion to reconsider should just be flat out
20 denied on that basis.

21 MR. KEEP: Judge, there is something Kafkaesque about
22 this case. Maybe the brother in California is owed 24,000.
23 Let's just say he is. But to no claim has been made to my
24 client for the 24,000. She probably has to pay him, maybe,
25 if -- if it's proven up. But for him to make himself the

1 executor of the estate and bring this case to Federal Court
2 claiming (inaudible) jurisdiction in Federal Court, which
3 ultimately and informally was denied. I must say, I've never
4 seen a case remanded by letter before. I was certainly
5 jumping up and down trying to get the Federal Court's
6 attention that there was no jurisdiction, so it's kicked back
7 to Probate Court, and then re-brought in Common Pleas over
8 24,000.

9 And now my poor client has to sell her home and pay a
10 lot more than she got, only to get it inherited back. The
11 children were disinherited. There was one child, I believe,
12 or at least one child mentioned in the will, who was
13 disinherited. The children have -- have made no claims. I
14 mean, this is just -- my client is caught in a maelstrom,
15 especially when she didn't even know anything about this
16 claim of \$24,000. I mean, think of the dislocation to her
17 life she'll have to sell ---

18 THE COURT: Mr. Keep, she should have just probated the
19 will as is appropriate as required by the probate code.
20 That's what she should have done in the first place.

21 MR. KEEP: Well, she didn't know that. All she knew was
22 that her name was on the deed already. And she wasn't aware
23 that when they divorced they left the place in both their
24 names after the divorce. And the divorce did not address
25 this property for some reason. She just didn't know that

1 that dissolved the joint interest, and she just was
2 uninformed.

3 MR. BOZEMAN: Your Honor, these -- these are just sort
4 of generalized complaints ---

5 THE COURT: Arguments.

6 MR. BOZEMAN: --- about the situation. Whether or not
7 the will applies again doesn't matter because as South
8 Carolina Probate Code makes clear, the real estate devolves
9 at the time of death. So it wound it has to go through the
10 estate first, whether or not the Defendant is an heir or
11 devisees under the will or not, it doesn't matter. So I
12 would -- I would again argue, Your Honor, that this --
13 Mr. Keep just simply has not established a genuine issue of
14 any fact that is material to the three claims that were at
15 issue in This Court's order granting our motion for summary
16 judgment.

17 And because he's failed to state the -- with
18 particularity, the grounds therefore, and any relief sought,
19 it should be denied now. If there are concerns about the
20 legal issues that you raised earlier, I think the proper
21 procedure would be to address those on appeal. But Mr. Keep
22 is not the one who raised those legal arguments, so he should
23 not be given the benefit of those decisions at this point at
24 this procedural posture. That would -- that would be our
25 argument. And -- and now that I'm even thinking about it,

1 those questions would not even be preserved for appeal
2 because Mr. Keep did not raise them, which is one of the
3 critical elements of issue preservation.

4 MR. KEEP: Judge, I'd ask that you vacate this order and
5 send it to Probate Court where it really belongs. Thank you,
6 ma'am.

7 THE COURT: All right. Well, Mr. Bozeman, my concern is
8 this, if it goes up on appeal, whether or not it was
9 preserved or not, I'm concerned that because of procedural
10 errors by Counsel that there will be some type of injustice
11 or something inequitable that results from this. I gotta
12 tell you, I gotta reverse the granting of summary judgment
13 for both the conversion cause of action and the executor de
14 son tort. I don't think I have the ability to do the one for
15 executor de son tort and conversion. I mean, I've read Judge
16 Norton's argument, you know. I will say this, I think this
17 case was pled in Federal Court about as well as it was here,
18 and I did see that the Federal Court took it upon themselves
19 to interpret, and I use that word really loosely, what was
20 being argued.

21 MR. BOZEMAN: Would The Court be open to receiving
22 further briefing on this if it's inclined on the -- on the
23 jurisdictional question and the conversion?

24 THE COURT: I mean, you can brief it more, but I mean
25 I've read it and I -- I understand and I know what, you know,

1 Mr. Brunson argued in front of me. He argued that this
2 wasn't real property (indiscernible) to money. He convinced
3 me last time we talked, but when I keep looking at this and
4 further, there's no case law to support that anywhere. I
5 can't find anything in the country if you -- if he's telling
6 me there's something out there that is, but I don't see it
7 for the conversion cause of action. Again, I'm concerned. I
8 mean, I will be the first to tell you, when Mr. Brunson
9 argued this executor de son tort, I had never even heard of
10 it before as a cause of action.

11 So obviously I don't do Probate Court, never did it
12 before I went on the bench, but it appears that when you read
13 the statute, it says it's something that the Probate Court
14 may do. And I think I took the argument of we had concurrent
15 jurisdiction over that, but I'm not sure I do. So that was a
16 concern I had. And then the construction trust, or the
17 constructive trust, you know, I still am not quite sure on
18 that. You know, quite frankly, Mr. Keep could have done
19 something to make their question a fact on that. And I'm
20 just not sure if there is anything that's in the record. No
21 depositions have been taken.

22 I didn't go through the request to admit, but correct me
23 if I'm wrong. Only -- is it only you that answered requested
24 to admit, Mr. Bozeman? Did you all send requests to admit to
25 Mr. Keep?

1 MR. BOZEMAN: To my knowledge, we have not sent requests
2 to admit yet.

3 THE COURT: Okay. He sent them to you, is what I saw.
4 And maybe it was in the Federal Court case, Mr. Bozeman. It
5 may not even be in the State Court case. It may be in the
6 Federal Court case that those were sent.

7 MR. BOZEMAN: Okay. My apologies, Your Honor. I
8 haven't been on this case for the entire ---

9 THE COURT: Listen, I understand -- I understand that.
10 And I know I'm sure you're going to get an earful when
11 Mr. Brunson comes back from his depositions today, but I do
12 have some concerns. So, what I would suggest is this,
13 potentially. If you would like an opportunity to respond or
14 brief the questions that I've raised -- I'm just concerned,
15 Mr. Bozeman. Obviously, procedurally, there's been a problem
16 in this case. It wasn't pled well. But I also don't think
17 that just based on a violation of the rules and not doing
18 what you're appropriately supposed to do, that necessarily,
19 you know, someone should lose their case.

20 So I am concerned about that. So, why don't you go
21 ahead and brief that. Once you do that, why don't you go
22 ahead and respond, Mr. Keep, and don't tell me again about
23 what's fair and what's not. You need to make sure that there
24 are some kinds of question of fact somewhere in this case
25 about whether or not you know constructive trust exists and

1 if you know they pled their cause of action for a
2 constructive trust. Mr. Bozeman, can I give you all ten days
3 to do that; is that okay?

4 MR. BOZEMAN: Yes. Yes, Your Honor, that would be ---

5 THE COURT: Is that all right?

6 MR. BOZEMAN: That works -- that works great for us.
7 Thank you for that opportunity.

8 THE COURT: Okay. And that's fine. And if you need any
9 clarity on this, you can reach back out, or if Mr. Brunson
10 needs any more clarity, obviously we'd have to get on a call
11 together, or on a Webex all together. But I just -- I think
12 I need a little bit more, and I mean, I will tell you this,
13 Mr. Bozeman, and you can argue -- you can tell Mr. Brunson
14 this. You know, I remember this argument vividly. I mean,
15 it was well argued, it was long argued by Mr. Brunson. I
16 just have real concerns about my ability on the conversion
17 cause of action and the executor de son tort. As far as the
18 constructive trust, maybe if you will put in where there's no
19 question of fact that you know you pled properly a
20 constructive trust, and there's no question of fact, okay?

21 MR. BOZEMAN: Okay, that sounds great. I appreciate
22 that. Thank you very much.

23 THE COURT: Absolutely. All right, both of you --
24 Mr. Keep, so once he goes ahead and responds, I need you to
25 respond as well.

1 MR. KEEP: Yes, ma'am.

2 THE COURT: Okay. So, Mr. Bozeman, I'm giving you ten
3 days. Then, Mr. Keep, within five days of that, you need to
4 respond as well. I need you both to email those directly, as
5 well as e-file them, just so I know they're there, okay? And
6 obviously, exchange them. E-filing, you both should get
7 noticed, but I don't get notices of e-filings, okay?

8 MR. BOZEMAN: Okay.

9 THE COURT: Send it to me and my law clerk, okay?

10 MR. BOZEMAN: All right. Thank you very much.

11 THE COURT: Thank you both. I appreciate it.

12 MR. KEEP: Thank you, Your Honor.

13 THE COURT: Thank you, Catherine. Okay, thanks
14 everybody.

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25 (THERE BEING NOTHING FURTHER, THIS HEARING CONCLUDED.)

CERTIFICATE OF TRANSCRIBER

I, Pam Gray, a court-approved transcriber, do hereby certify that the foregoing is a true, accurate and complete Transcript of Record of the proceedings had and evidence introduced in the trial of the captioned case, relative to appeal, in the Circuit Court Fourteenth for Beaufort County, South Carolina, on the 14th day of January, 2026.

I do further certify that I am neither of kin, counsel, nor interest to any party hereto.

June 10, 2026

Pam Gray

Pam Gray
Certified Transcriber

STATE OF SOUTH CAROLINA)
) IN THE COURT OF COMMON PLEAS
 COUNTY OF BEAUFORT) FOURTEENTH JUDICIAL CIRCUIT

IN THE MATTER OF:	)	Case No. 2025-CP-07-00873
GEORGE FRANCIS NIESAR	)	
(Decedent)	)	
	)	
GERALD VIGLIONE NIESAR,	)	OFFER OF JUDGMENT
Individually and as Personal Representative of	)	
the Estate of George Francis Niesar,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	
	)	
CHRISTINE NEMETH,	)	
	)	
Defendant.	)	
	)	

Pursuant to Rule 68 of the South Carolina Rules of Civil Procedure, Plaintiff Gerald Viglione Niesar (“Plaintiff”), by and through his undersigned counsel, hereby offers to take judgment against Defendant Christine Nemeth (“Defendant”) in this matter on the terms described on page ten (10) of the Court’s Final Order Granting Plaintiff’s Motion for Summary Judgment dated December 31, 2025. Specifically, if accepted, this judgment will: (i) require Defendant to pay actual damages to Plaintiff in the principal amount of \$443,000, plus prejudgment interest at 8.75% per annum, from October 31, 2022 until the date the judgment is entered, and thereafter at the post-judgment rate provided for in S.C. Code Ann. § 34-31-20(B) until paid in full; (ii) deduct \$443,000 from the value of any distribution or payment that Defendant may be entitled to receive from the Estate; and (iii) impose a constructive trust over \$443,000, plus the pre- and post-judgment interest mentioned above.

Defendant has twenty (20) days from the date of service to accept this Offer of Judgment ("Offer"). If Defendant accepts this Offer and gives timely notice thereof, the Offer and a Notice of Acceptance may be filed with the Court, and the clerk will then enter judgment against Defendant according to the terms outlined above. In the event this Offer is not accepted, Plaintiff will continue to vigorously prosecute this action and seek all benefits provided for in Rule 68.

NELSON MULLINS RILEY & SCARBOROUGH LLP

By: /s/ Robert H. Brunson

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as Personal Representative of the Estate of George Francis
Niesar*

Charleston, South Carolina
March 26, 2026

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Apr 30 2026

SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM BEAUFORT COUNTY
Court of Common Pleas

Carmen T. Mullen, Circuit Court Judge

Civil Action No. 2025-CP-07-00873

Gerald Viglione Niesar, Individually and as Personal Appellant,
Representative of the Estate of George Francis Niesar,

v.

Christine Nemeth, Respondent.

NOTICE OF APPEAL

Appellant Gerald Viglione Niesar, Individually and as Personal Representative of the Estate of George Francis Niesar ("Appellant") appeals the following orders issued by the Honorable Carmen T. Mullen: (1) Order entered April 21, 2026, denying Appellant's Motion to Reconsider filed on March 18, 2026 and (2) Order entered March 10, 2026, granting Respondent's January 6, 2026 Motion to Reconsider Final Order Granting Plaintiff's Motion for Summary Judgment, in which Judge Mullen reversed her December 31, 2025 Final Order Granting Plaintiff's Motion for Summary Judgment on all of his causes of action. Copies of the orders are attached as **Exhibits 1-3**.

This appeal is timely filed within 30 days of Appellant's receipt of the circuit court's entry of the April 21, 2026 Order denying Appellant's Motion to Reconsider. See Rule 203(b)(1), SCACR.

Signature on Following Page

NELSON MULLINS RILEY & SCARBOROUGH LLP

By: /s/ Robert H. Brunson

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Charleston, South Carolina
April 30, 2026

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Attorney for Respondent Christine Nemeth

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Apr 30 2026

SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM BEAUFORT COUNTY
Court of Common Pleas

Carmen T. Mullen, Circuit Court Judge

Civil Action No. 2025-CP-07-00873

Gerald Viglione Niesar, Individually and as Personal Representative of the Estate of George Francis Niesar, Appellant,

v.

Christine Nemeth, Respondent.

PROOF OF SERVICE

I, the undersigned, of the law offices of Nelson Mullins Riley & Scarborough LLP, attorneys for Appellant Gerald Viglione Niesar, Individually and as Personal Representative of the Estate of George Francis Niesar do hereby certify that I have served all counsel of record in this action with a copy of the document(s) set forth below under Supreme Court Order dated April 24, 2024.

PLEADING(s): **Notice of Appeal**

Counsel Served: **Via Electronic Mail**
Russ Keep, III, Esquire (S.C. Bar No. 3321)
Post Office Box 5877
Hilton Head Island, SC 29938
thehlaw@gmail.com
Attorney for Respondent Christine Nemeth



Janice Morreale
Senior Paralegal

April 30, 2026

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Apr 30 2026

SC Court of Appeals

Exhibit 1

STATE OF SOUTH CAROLINA
COUNTY OF Beaufort
IN THE COURT OF COMMON PLEAS

FORM 4

JUDGMENT IN A CIVIL CASE

CASE NO. 2025CP0700873

Gerald Viglione Niesar et al
PLAINTIFF(S)

Christine Nemeth
DEFENDANT(S)

DISPOSITION TYPE (CHECK ONE)

- ☐ **JURY VERDICT.** This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- ☒ **DECISION BY THE COURT.** This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.
- ☐ **ACTION DISMISSED** (CHECK REASON): ☐ Rule 12(b), SCRPC; ☐ Rule 41(a), SCRPC (Vol. Nonsuit); ☐ Rule 43(k), SCRPC (Settled);
☐ Other
- ☐ **ACTION STRICKEN** (CHECK REASON): ☐ Rule 40(j), SCRPC; ☐ Bankruptcy;
☐ Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award;
☐ Other
- ☐ **STAYED DUE TO BANKRUPTCY**
- ☐ **DISPOSITION OF APPEAL TO THE CIRCUIT COURT** (CHECK APPLICABLE BOX):
☐ Affirmed; ☐ Reversed; ☐ Remanded;
☐ Other

NOTE: ATTORNEYS ARE RESPONSIBLE FOR NOTIFYING LOWER COURT, TRIBUNAL, OR ADMINISTRATIVE AGENCY OF THE CIRCUIT COURT RULING IN THIS APPEAL.

IT IS ORDERED AND ADJUDGED: ☐ See attached order (formal order to follow) ☒ Statement of Judgment by the Court:

This matter comes before the Court on Plaintiff's Motion to Reconsider filed on March 3, 2026. This motion is denied without a hearing.

ORDER INFORMATION

This order ☐ ends ☒ does not end the case.

☐ See Page 2 for additional information.

For Clerk of Court Office Use Only

This judgment was electronically entered by the Clerk of Court as reflected on the Electronic Time Stamp, and a copy mailed first class to any party not proceeding in the Electronic Filing System on 04/21/2026 .

George Frances Niesar
Estate of George Fances Neisar

RECEIVED
Apr 30 2026
SC Court of Appeals

NAMES OF TRADITIONAL FILERS SERVED BY MAIL

Court Reporter:

E-Filing Note: The date of Entry of Judgment is the same date as reflected on the Electronic File Stamp and the clerk's entering of the date of judgment above is not required in those counties. The clerk will mail a copy of the judgment to parties who are not E-Filers or who are appearing pro se. See Rule 77(d), SCRCP.

FILED ELECTRONICALLY FILED - 2025 APR 30 12:58 PM - BEEAUFORT - COMMONPLEAS - CASE#2023CF0700873



Beaufort Common Pleas

Case Caption: Gerald Viglione Niesar , plaintiff, et al VS Christine Nemeth

Case Number: 2025CP0700873

Type: Order/Electronic Form 4

So Ordered

s/Carmen T Mullen 2142

Electronically signed on 2026-04-21 13:54:52 page 3 of 3

Certificate of Electronic Notification

Recipients

Charles Keep - Notification transmitted on 04-21-2026 01:59:06 PM.

Robert Brunson - Notification transmitted on 04-21-2026 01:59:06 PM.

***** IMPORTANT NOTICE - READ THIS INFORMATION *****
NOTICE OF ELECTRONIC FILING [NEF]

-

A filing has been submitted to the court RE: 2025CP0700873

Official File Stamp: 04-21-2026 01:58:58 PM

Court: CIRCUIT COURT

Common Pleas

Beaufort

Case Caption: Gerald Viglione Niesar , plaintiff, et al VS
Christine Nemeth

Document(s) Submitted: Order/Elec. F4 - Motion To Reconsider Denied
w/o Hearing Order/Electronic Form 4

Filed by or on behalf of: Carmen T. Mullen

This notice was automatically generated by the Court's auto-notification system.

-

The following people were served electronically:

Robert H. Brunson for Gerald Viglione Niesar

Charles Russ Keep, III for Christine Nemeth

The following people have not been served electronically by the Court. Therefore, they must be served by traditional means:

George Frances Niesar

Estate of George Fances Neisar

RECEIVED

Apr 30 2026

SC Court of Appeals

ELECTRONICALLY FILED - 2026 Apr 30 12:44 PM - BEAUFORT - COMMON PLEAS - CASE#2025CP0700873

Exhibit 2

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS	
COUNTY OF BEAUFORT	)	FOR THE FOURTEENTH JUDICIAL CIRCUIT	
	)		
	)	CIVIL ACTION NO.: 2025-CP-07-00873	
Gerald Niesar,	)		
Plaintiff,	)		
	)		
VS.	)	ORDER	
	)		
Christine Nemeth,	)		
Defendant.	)		
	)		

RECEIVED
Apr 30 2026
SC Court of Appeals

This Motion to Reconsider this Court's order dated December 31, 2025 came before me for a hearing on January 14, 2026. Following the hearing, Plaintiff filed their supplemental memorandum on January 26, 2026 and Defendant filed their supplemental response on January 29, 2026.

The Court has reviewed the entire file for purposes of this Motion to Reconsider and considered oral arguments and all briefing regarding this action in which the Estate is alleging that it is entitled to half of the proceeds from the sale of the subject Property. After further review, the Court believes that there is a question of fact as to the Plaintiff's claims and reverses her December 31, 2025 order granting Summary Judgment on all causes of action.

As to the cause of action for conversion, under South Carolina law, a cause of action for conversion cannot be sustained when the thing converted is an interest in real property. See Equitable Tr. Co. of Columbia v. Columbia Nat'l Bank, 142 S.E. 811, 813-814 (S.C. 1928), "The cause of action set up by the plaintiff is one in tort for damages for conversion, and such an action does not lie for an exercise of of dominion or control over real property or the assumption

of the right to dispose of the same, even though the exercise of such dominion or the assumption of such right is in denial of the rights of a true owner.”)

As to the cause of action for liability as executor de son tort, pursuant to S.C. Code § 62-1-302(a), the probate court has exclusive original jurisdiction over all subject matter related to estates of decedents, including actions involving estate property and related disputes, unless the Code specifically provides otherwise. South Carolina Code § 62-3-620 specifically allows the probate court to cite an executor de son tort before it, require an accounting, and decree liability for waste or damage to estate property — effectively empowering the probate court to adjudicate those claims.

In Judy v. Judy, 393 S.C. 160, 712 S.E.2d 408 (S.C. 2011), the Supreme Court of South Carolina held that the probate court had jurisdiction over a waste claim against a defendant whose conduct classified him as an “executor de son tort” under S.C. Code § 62-3-620. The court explained the statute authorizes the probate judge to require an executor de son tort to account for estate property and to decree damages for waste or conversion. In the Judy context, the Supreme Court’s holding supports the probate court as the proper forum for executor de son tort claims tied to estate administration, not circuit court. And while I cannot find an opinion explicitly stating “circuit courts lack subject matter jurisdiction over executor de son tort actions,” the Judy case and the Probate Code strongly support the principle that probate courts are the appropriate forum for such claims.

Finally, as to the cause of action for a constructive trust, while the Defendant’s argument is poorly articulated, there are questions of fact that need to be decided by the fact finder such that summary judgment is not appropriate on whether or not a constructive trust exists.

THEREFORE, IT IS ORDERED that the Final Order Granting Plaintiff's Motion for Summary Judgment entered on December 31, 2025 is reversed in full. Plaintiff's Motion for Summary Judgment is accordingly denied, and this case shall remain on the docket.

IT IS SO ORDERED.

Carmen T. Mullen
Fourteenth Judicial Circuit

March ____, 2026
Beaufort, SC



Beaufort Common Pleas

Case Caption: Gerald Viglione Niesar , plaintiff, et al VS Christine Nemeth

Case Number: 2025CP0700873

Type: Order/Other

So Ordered

s/Carmen T Mullen 2142

Electronically signed on 2026-03-10 09:12:54 page 4 of 4

Certificate of Electronic Notification

Recipients

Charles Keep - Notification transmitted on 03-10-2026 10:31:11 AM.

Robert Brunson - Notification transmitted on 03-10-2026 10:31:11 AM.

***** IMPORTANT NOTICE - READ THIS INFORMATION *****
NOTICE OF ELECTRONIC FILING [NEF]

-

A filing has been submitted to the court RE: 2025CP0700873

Official File Stamp: 03-10-2026 10:31:06 AM

Court: CIRCUIT COURT

Common Pleas

Beaufort

Case Caption: Gerald Viglione Niesar , plaintiff, et al VS
Christine Nemeth

Document(s) Submitted: Order - Final Order Granting Plain.'s Motion/SJ on
12/31/25 Reversed In Full. Plain.'s Motion/SJ is
Denied. Case Remains On Docket.

Filed by or on behalf of: Carmen T. Mullen

This notice was automatically generated by the Court's auto-notification system.

-

The following people were served electronically:

Robert H. Brunson for Gerald Viglione Niesar

Charles Russ Keep, III for Christine Nemeth

The following people have not been served electronically by the Court. Therefore, they must be served by traditional means:

George Frances Niesar

Estate of George Fances Neisar

RECEIVED

Apr 30 2026

SC Court of Appeals

ELECTRONICALLY FILED - 2026 Apr 30 12:44 PM - BEAUFORT - COMMON PLEAS - CASE#2025CP0700873

Exhibit 3

STATE OF SOUTH CAROLINA	)	
	)	IN THE COURT OF COMMON PLEAS
COUNTY OF BEAUFORT	)	FOURTEENTH JUDICIAL CIRCUIT
IN THE MATTER OF:	)	Case No. 2025-CP-07-00873
GEORGE FRANCIS NIESAR	)	
(Decedent)	)	
	)	
GERALD VIGLIONE NIESAR,	)	FINAL ORDER GRANTING
Individually and as Personal Representative of	)	PLAINTIFF'S MOTION FOR
the Estate of George Francis Niesar,	)	SUMMARY JUDGMENT
	)	
Plaintiff,	)	
	)	
vs.	)	
	)	
CHRISTINE NEMETH,	)	
	)	
Defendant.	)	

RECEIVED
Apr 30 2026
SC Court of Appeals

This matter comes before the Court on a motion filed by Plaintiff Gerald Viglione Niesar (“Plaintiff”) on May 6, 2025, seeking summary judgment on all of Plaintiff’s claims (“Motion for Summary Judgment”). The Court has carefully reviewed the parties’ filings and the arguments of counsel at the hearing on October 28, 2025. Having considered all arguments and submissions, the Court grants Plaintiff’s Motion for Summary Judgment in its entirety for the reasons stated below.

INTRODUCTION

This dispute involves claims brought by the estate (“Estate”) of Decedent George Francis Niesar (“Decedent” or “George”) against an alleged debtor of the Estate, the Decedent’s ex-wife, Defendant Christine Nemeth (“Nemeth”). Plaintiff is Decedent’s brother and, as Personal Representative of his Estate, seeks damages arising from Nemeth’s alleged wrongful retention of half of the proceeds from the sale of real property owned by Nemeth and Decedent. Plaintiff

asserts that after Decedent's death, Decedent's Estate had an ownership right to half of the proceeds of the sale of the property because when Decedent and Nemeth divorced in 2007, their joint tenancy with rights of survivorship in the Property severed. It is undisputed that Nemeth sold the property after Decedent's death and did not share any of the proceeds from the sale of the property with the Estate. Plaintiff now seeks to recover from Nemeth those wrongfully converted assets that belong to Decedent's Estate.

BACKGROUND

Decedent married Nemeth on March 29, 1989. (Exhibit A to Plaintiff's Memorandum in Support of Motion for Summary Judgment ("Pl.'s Exhibit A") at 2, 19; Compl. ¶ 6; Ans. ¶ 2). During their marriage, Decedent and Nemeth purchased the property known as 1105 Bluffton Parkway, Bluffton, South Carolina 29910, with Beaufort County Tax Map Parcel Numbers R600-029-000-0034-0000 and R600-029-000-011A-0000 (the "Property") as joint tenants with rights of survivorship. (Pl.'s Exhibit B; Compl. ¶ 8; Ans. ¶ 2). There was no mortgage on the Property. (Compl. ¶ 8; Ans. ¶ 2). Nemeth filed for divorce on May 7, 2007, and the Final Order of Divorce was issued by the Beaufort County, South Carolina Family Court on July 18, 2007. (Pl.'s Exhibit A; Compl. ¶ 9; Ans. ¶ 2). Nemeth admits the Final Order of Divorce does not reference the Property at all. (Pl.'s Exhibit A; Defendant's Return to Plaintiff's Motion for Summary Judgment ("Return") ¶ 6).

On September 3, 2022, Decedent and Nemeth entered into a contract ("Contract of Sale") to sell the Property to the Beaufort County School District ("BCSD") for \$886,000, with a closing date of October 31, 2022. (Pl.'s Exhibit C; Compl. ¶ 14; Ans. ¶ 2). Through several emails on or around October 5, 2022, Decedent and Nemeth's attorney informed the BCSD that Decedent was hospitalized and his outcome was uncertain. (Compl. ¶ 14; Ans. ¶ 2).

Decedent died on October 7, 2022 during the closing period. (Pl.’s Exhibit D; Compl. ¶ 15; Ans. ¶ 2). On the day of Decedent’s death, Nemeth forwarded to the BCSD a picture of a Power of Attorney (“POA”) purportedly executed in her favor by Decedent on December 17, 2018, and indicated that because Decedent lacked capacity to close the sale of the Property, Nemeth would close for him pursuant to her authority under the POA. (Pl.’s Exhibit E; Compl. ¶ 16; Ans. ¶ 2). On October 12, 2022, Nemeth executed and delivered to the BCSD an affidavit falsely stating the POA remained in force and that Decedent was still alive, even though Decedent died five days earlier and the POA terminated upon his death under S.C. Code Ann. § 62-8-110(a)(1). (Pl.’s Exhibit F).

On or about October 31, 2022, Nemeth sold the Property to the BCSD for \$886,000.00, the price agreed to in the Contract of Sale for both Nemeth’s and Decedent’s interests in the Property (the “Sale”). (Pl.’s Exhibit G; Pl.’s Exhibit H; Pl.’s Exhibit I (stating that the “effective date of closing” was October 31, 2022)). Nemeth is the only grantor present on the deed conveying the Property, and Nemeth alone collected the full amount of the Sale’s proceeds. (Pl.’s Exhibits G–H). It was only after receiving the entire proceeds that Nemeth recorded Decedent’s death certificate on November 3, 2022. (Pl.’s Exhibit D).

STANDARD OF REVIEW

Summary judgment is proper when the pleadings, depositions, affidavits, and discovery on file show there is no genuine issue of material fact such that the moving party must prevail as a matter of law. *See* Rule 56(c), SCRPC; *Knight v. Austin*, 396 S.C. 518, 521, 722 S.E.2d 802, 804 (2012); *Kitchen Planners, LLC v. Friedman*, 440 S.C. 456, 463, 892 S.E.2d 297, 301 (2023) (eliminating the “mere scintilla” standard and holding the proper standard is the “genuine issue of material fact” standard set forth in the text of Rule 56(c), SCRPC). In determining whether any

triable issues of fact exist, the evidence and all inferences which can be reasonably drawn therefrom must be viewed in the light most favorable to the non-moving party. *Shaw v. City of Charleston*, 351 S.C. 32, 38, 567 S.E.2d 530, 534 (2002). Although a court considering summary judgment is to view the evidence in the light most favorable to the non-moving party, “a party may not create a genuine issue of material fact through speculation or guesswork.” *In re Eleanor McCarthy Lenahan Tr. under agreement Dated July 12, 2001*, 428 S.C. 598, 605, 836 S.E.2d 793, 797 (Ct. App. 2019).

ANALYSIS

The Court finds that none of the facts material to Plaintiff’s claims are in dispute. This matter presents pure questions of law, and Plaintiff is entitled to judgment as a matter of law on all three of his causes of action.

I. Plaintiff is Entitled to Summary Judgment on his Claim for Conversion.

Conversion is the “unauthorized assumption and exercise of the right of ownership over goods or personal chattels belonging to another, to the alteration of the condition or the exclusion of the owner’s rights.” *Regions Bank v. Schmauch*, 354 S.C. 648, 667, 582 S.E.2d 432, 442 (Ct. App. 2003) (citation and internal quotation marks omitted). To establish a cause of action for conversion, “a plaintiff must prove (1) an interest by the plaintiff in the thing converted; (2) the defendant converted the property to his or her own use; and (3) the use was without the plaintiff’s permission.” *Builders Source Direct v. Cosco Logistics (Americas) Inc.*, 2008 WL 11349731, at *11 (D.S.C. 2008) (citing *Crane v. Citicorp Nat’l Servs., Inc.*, 313 S.C. 70, 437 S.E.2d 50 (1993), *superseded by statute on other grounds*)). “[I]t is essential that the plaintiff establish either title to or right to the possession” of the property at the time of conversion. *Regions Bank*, 354 S.C. at 667, 582 S.E.2d at 442 (citation and internal quotation marks omitted).

A. **The Estate owns an Interest in the Sale's Proceeds.**

Here, the first element of conversion is indisputably met because the Estate owned a one-half interest in the Property at the time of the Sale and was, therefore, entitled to receive one half of the proceeds of the Sale. That is because the joint tenancy with rights of survivorship in which Nemeth and Decedent owned the Property was severed by their divorce in 2007 pursuant to South Carolina Code sections 27-7-40(a)(vii) and 62-2-507(c)(2).

Nemeth admits that she and Decedent divorced in 2007. (Compl. ¶ 9; Ans. ¶ 2). She also admits the divorce order did not reference or disclose the Property. (Pl.'s Exhibit A; Return ¶ 6). Those two facts alone are sufficient to sever Nemeth's rights of survivorship under South Carolina law.

S.C. Code § 27-7-40(a)(vii) clearly and unequivocally states, "Any joint tenancy in real estate held by a husband and wife with no other joint tenants ***is severed upon the filing of an order or decree dissolving their marriage and vests the interest in both the parties as tenants in common***, unless an order or decree of a court of competent jurisdiction otherwise provides." (emphasis added). Similarly, S.C. Code § 62-2-507(c)(2) provides:

Except as provided by the express terms of a governing instrument, a court order, or a contract relating to the division of the marital estate made between the divorced individuals before or after the marriage, divorce or annulment, the ***divorce or annulment of a marriage . . . severs the interests of the former spouses in property held by them at the time of the divorce or annulment as joint tenants with the right of survivorship so that the share of the decedent passes as the decedent's property and the former spouse has no rights by survivorship***. This provision applies to joint tenancies in real and personal property, joint and multiple-party accounts in banks, savings and loan associations, credit unions, and other institutions, and any other form of co-ownership with survivorship incidents.

Id. (emphasis added).

Thus, because the divorce order does not provide otherwise, nor is there any other court order or governing instrument that provides otherwise, Decedent's and Nemeth's joint tenancy

with rights of survivorship in the Property severed upon their divorce and became a tenancy in common without rights of survivorship.

Nemeth has made no argument as to how she retained survivorship rights in light of these statutes but incorrectly asserts without any explanation that she retained rights of survivorship upon Decedent's death because of a document dated December 17, 2018 and titled, "Last Will and Testament of George Francis Niesar" ("Purported Will") that claims to make Nemeth the sole beneficiary of all of Decedent's property, including his real estate. (Return ¶ 7; Def.'s Exhibit B). The Purported Will, however, could not possibly change the fact that Decedent's and Nemeth's joint tenancy previously severed upon their divorce in 2007 and that the Property, therefore, became a part of Decedent's Estate upon his death.

Further, the personal representative of an estate has superior rights to all assets in a probate estate for the very purpose of protecting the rights of all beneficiaries, interested persons, and creditors of the estate. *See* S.C. Code Ann. § 62-3-709 (entitling the personal representative to possession of all real property during administrating); S.C. Code Ann. § 62-3-711(a) ("Until termination of his appointment . . . , a personal representative has the same power over the title to property of the estate that an absolute owner would have"); *Estate of Livingston v. Livingston*, 404 S.C. 137, 145, 744 S.E.2d 203, 208 (Ct. App. 2013) (holding that "[b]ecause [the personal representative] retained the authority over the estate as the PR, the [real] property did not pass to [the devisee named in the Will to inherit the real property] despite his status as a named heir in the will. The probate code presents this as an absolute right derived out of necessity to manage the estate. Thus, when a PR asserts his or her authority over the property, the PR usurps the rights of the heirs regarding control of the real property while the estate is still being administered.").

Thus, after Decedent's death, Nemeth did not own the Property outright; instead, Nemeth and Decedent's Estate each had equal ownership in the Property. Therefore, there is no dispute that one-half of the proceeds from the Sale legally and equitably belonged to the Estate.

B. Nemeth Converted all of the Sale's Proceeds for her Own Use.

The second element of conversion is also satisfied. Nemeth does not dispute that she sold the Property to the BCSD for \$886,000, that she is the only grantor present on the deed conveying the Property to the BCSD, and that she collected the full purchase price after the Sale and kept it for herself alone without distributing the proceeds equally between herself and the Estate. (Pl.'s Exhibits G–H). As a result, there is no genuine issue that Nemeth converted half of the proceeds from the Sale of the Property and, thereby, converted an asset that rightfully belongs to Decedent's Estate.

C. Nemeth's Use was Without the Estate's Permission.

With respect to the third element of conversion, there is no factual dispute that the Estate did not permit or authorize Nemeth to keep the full proceeds from the Sale. It is undisputed that before Nemeth sold the Property and appropriated all of the Sale proceeds for herself alone, she did not submit any Will of Decedent to probate or petition for her appointment as Personal Representative of the Estate.

Accordingly, the Court hereby finds that summary judgment is warranted in Plaintiff's favor on his claim for conversion and orders Nemeth to pay actual damages to Plaintiff in the amount of \$443,000.00, which represents the Estate's one-half interest in the proceeds of the Sale. Additionally, because Nemeth's monetary obligation to the Estate is for a sum certain, the Court also awards prejudgment interest, accruing at an annual rate of 8.75% beginning on the first day the Estate could have demanded its \$443,000—October 31, 2022. *See* S.C. Code § 34-31-20(A)

(“In all cases of accounts stated and in all cases wherein any sum or sums of money shall be ascertained and, being due, shall draw interest according to law, the legal interest shall be at the rate of eight and three-fourths percent per annum.”); *Historic Charleston Holdings, LLC v. Mallon*, 381 S.C. 417, 673 S.E.2d 448 (2009) (“The law permits the award of prejudgment interest when a monetary obligation is a sum certain, or is capable of being reduced to certainty, accruing from the time payment may be demanded either by the agreement of the parties or the operation of law.”); *Robbins v. First Fed. Sav. Bank*, 294 S.C. 219, 225, 363 S.E.2d 418, 422 (Ct. App. 1987) (stating that “the measure of damages for money which has been converted is its amount with legal interest from the date of conversion”).

II. Plaintiff is Entitled to Summary Judgment on his Claim against Nemeth for Liability as Executor De Son Tort.

Plaintiff is also entitled to summary judgment on his cause of action against Nemeth for her liability as an executor de son tort of Decedent’s Estate. Under S.C. Code Ann. § 62-3-619, “[a]ny person who obtains, receives, or possesses property of whatever kind, belonging to the decedent, by means of fraud or without paying valuable consideration equivalent to the value of the property, shall be charged and chargeable as executor of his own wrong (executor de son tort) with respect to the goods and debts.” In such cases, “[t]he value of the property is charged to the executor de son tort,” and “shall be deducted from any distribution or payment of any claim or commission to which the executor de son tort is entitled from the estate.” *Id.*

As discussed above, Nemeth’s and Decedent’s joint tenancy with rights of survivorship in the Property severed upon their divorce. Accordingly, when Decedent died, his one-half interest in the Property did not vest in Nemeth but remained in his Estate. Nemeth obtained, received, and currently possesses all of the proceeds from the Sale of the Property, one-half of which belongs to the Estate. Nemeth did not pay any consideration to the Estate for the Estate’s one-half ownership

interest in the Property, Decedent's rights under the contract to sell the Property, or one half of the proceeds from the Sale of the Property. Accordingly, the Court hereby finds that Nemeth is liable to Decedent's Estate as executor de son tort for one-half of the proceeds of the Sale and, therefore, awards summary judgment in Plaintiff's favor.

III. Plaintiff is Entitled to Summary Judgment on his Claim for Constructive Trust.

Last, the Court grants summary judgment on Plaintiff's claim for constructive trust. A constructive trust is an operation of law designed to remedy unjust enrichment, *Hale v. Finn*, 388 S.C. 79, 89, 694 S.E.2d 51, 57 (Ct. App. 2010), and "arises whenever a party has obtained money which does not equitably belong to him and which he cannot in good conscience retain or withhold from another who is beneficially entitled to it as where money has been paid by accident, mistake of fact, or fraud, or has been acquired through a breach of trust or the violation of a fiduciary duty." *SSI Med. Servs.*, 301 S.C. at 500, 392 S.E.2d at 793-94.

There is no genuine issue that Nemeth has been unjustly enriched by her unlawful and fraudulent procurement and retention of the full proceeds of the Property's Sale, when one half of those proceeds belong to the Estate. The Estate's share of the proceeds do not equitably belong to Nemeth, and she cannot in good conscience retain or withhold them from the Estate. Therefore, Plaintiff is entitled to the imposition of a constructive trust over the portion of the proceeds from the Property's Sale that rightfully belong to Decedent's Estate that Nemeth improperly retained for herself. *See SSI Med. Servs.*, 301 S.C. at 501, 392 S.E.2d at 794 (affirming summary judgment in plaintiff's favor on its claim for constructive trust where the "profits [the defendant] retained from the sale of the vehicles were acquired through a breach of trust and fiduciary duty" and, therefore, "did not equitably belong to [the defendant]").

CONCLUSION

Based on the foregoing, the Court enters summary judgment in favor of Plaintiff on his claims against Nemeth for conversion, constructive trust, and liability as executor de son tort. Nemeth is hereby directed to pay actual damages to Plaintiff in the principal amount of \$443,000, plus prejudgment interest at 8.75% per annum, from October 31, 2022, the date of the conversion, until the date the judgment is entered, and thereafter at the post-judgment rate provided for in S.C. Code Ann. § 34-31-20(B)¹ until paid in full. Through November 7, 2025, the prejudgment interest is \$116,104.45, and the combined total owed is \$559,104.45. In addition to these damages, as required by S.C. Code Ann. § 62-3-619, the value of any distribution or payment that Nemeth may be entitled to receive from the Estate shall be reduced by \$443,000—the value of the Estate’s property in Nemeth’s wrongful possession. Last, the Court hereby imposes a constructive trust over \$443,000—the portion of the proceeds of the Sale that rightfully belong to the Estate that Nemeth improperly retained for herself—plus the pre- and post-judgment interest awarded above.

AND IT IS SO ORDERED.

Honorable Carmen T. Mullen
Circuit Court Judge

¹ The current post-judgment interest rate is 11.5% compounded annually. *See* S.C. Sup. Ct. Order dated January 6, 2025.

FORM 4

STATE OF SOUTH CAROLINA
COUNTY OF BEAUFORT
IN THE COURT OF COMMON PLEAS

JUDGMENT IN A CIVIL CASE

CASE NO. 2025 CP-07-00873

Gerald Viglione Niesar, Individually and as Personal
Representative of the Estate of George Francis Niesar

PLAINTIFF

Christine Nemeth

DEFENDANT

Submitted by: Robert Brunson, Esquire

Attorney for : ☒ Plaintiff ☐ Defendant
or
☐ Self-Represented Litigant

DISPOSITION TYPE (CHECK ONE)

- ☐ **JURY VERDICT.** This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- ☒ **DECISION BY THE COURT.** This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered. ☒ See Page 2 for additional information.
- ☐ **ACTION DISMISSED** (*CHECK REASON*): ☐ Rule 12(b), SCRCP; ☐ Rule 41(a), SCRCP (Vol. Nonsuit); ☐ Rule 43(k), SCRCP (Settled); ☐ Other
- ☐ **ACTION STRICKEN** (*CHECK REASON*): ☐ Rule 40(j), SCRCP; ☐ Bankruptcy; ☐ Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award; ☐ Other
- ☐ **STAYED DUE TO BANKRUPTCY**
- ☐ **DISPOSITION OF APPEAL TO THE CIRCUIT COURT** (*CHECK APPLICABLE BOX*):
☐ Affirmed; ☐ Reversed; ☐ Remanded; ☐ Other

NOTE: ATTORNEYS ARE RESPONSIBLE FOR NOTIFYING LOWER COURT, TRIBUNAL, OR ADMINISTRATIVE AGENCY OF THE CIRCUIT COURT RULING IN THIS APPEAL.

IT IS ORDERED AND ADJUDGED: ☒ See attached order (formal order to follow) ☐ Statement of Judgment by the Court:

ORDER INFORMATION

This order ☒ ends ☐ does not end the case.

Additional Information for the Clerk : _____

INFORMATION FOR THE JUDGMENT INDEX		
Complete this section below when the judgment affects title to real or personal property or if any amount should be enrolled. If there is no judgment information, indicate "N/A" in one of the boxes below.		
Judgment in Favor of (List name(s) below)	Judgment Against (List name(s) below)	Judgment Amount To be Enrolled (List amount(s) below)
Gerald Viglione Niesar, Individually and as Personal Representative of the Estate of George Francis Niesar, Plaintiff	Christine Nemeth	\$443,000.00 actual damages
Gerald Viglione Niesar, Individually and as Personal Representative of the Estate of George Francis Niesar, Plaintiff	Christine Nemeth	\$116,104.45 pre-judgment interest
Gerald Viglione Niesar, Individually and as Personal Representative of the Estate of George Francis Niesar, Plaintiff	Christine Nemeth	Post-judgment interest pursuant to S.C. Code Ann. § 34-31-20(B) until paid in full
If applicable, describe the property, including tax map information and address, referenced in the order:		

The judgment information above has been provided by the submitting party. Disputes concerning the amounts contained in this form may be addressed by way of motion pursuant to the SC Rules of Civil Procedure. Amounts to be computed such as interest or additional taxable costs not available at the time the form and final order are submitted to the judge may be provided to the clerk. **Note: Title abstractors and researchers should refer to the official court order for judgment details.**

E-Filing Note: In E-Filing counties, the Court will electronically sign this form using a separate electronic signature page.

Honorable Carmen T. Mullen, Circuit Court Judge

Judge Code

Date

For Clerk of Court Office Use Only

This judgment was entered on the _____ day of December, 2025 and a copy mailed first class or placed in the appropriate attorney's box on this _____ day of December, 2025 to attorneys of record or to parties (when appearing pro se) as follows:

Robert H. Brunson

John P. Bozeman

ATTORNEYS FOR THE PLAINTIFF

Russ Keep, III

ATTORNEY FOR THE DEFENDANT

CLERK OF COURT

Court Reporter:

E-Filing Note: In E-Filing counties, the date of Entry of Judgment is the same date as reflected on the Electronic File Stamp and the clerk's entering of the date of judgment above is not required in those counties. The clerk will mail a copy of the judgement to parties who are not E-Filers or who are appearing pro se. See Rule 77(d), SCRCP.

ADDITIONAL INFORMATION REGARDING DECISION BY THE COURT AS REFERENCED ON PAGE 1.

This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.

In addition to these damages, as required by S.C. Code Ann. § 62-3-619, the value of any distribution or payment that Nemeth may be entitled to receive from the Estate shall be reduced by \$443,000—the value of the Estate's property in Nemeth's wrongful possession. Last, the Court hereby imposes a constructive trust over \$443,000—the portion of the proceeds of the Sale that rightfully belong to the Estate that Nemeth improperly retained for herself—plus the pre- and post-judgment interest awarded above.

FORM 4C INSTRUCTIONS—JUDGMENT IN A CIVIL CASE
(Instructions for Information Only-Not to be filed with Form 4C)

1. Form 4C-Judgment in a Civil Case has been modified to add order information and enrollment instructions for the clerk of court. The purpose of Form 4 has not changed with the exception that judgment information is provided when applicable.
2. Please note that the Form 4C must be attached to all orders that include information to enroll in the judgment index. The clerk will not be responsible for reading the order to determine enrollment information.

The attorney or prevailing party will prepare and attach the Form 4C when submitting the proposed order that includes judgment enrollment information for the judgment index. The judge will review and sign Form 4C when he or she signs an order that includes judgment enrollment information for the judgment index.

3. Form 4C is not required to be submitted to the Court with orders that do not include information to enroll in the judgment index. If the clerk receives such an order without Form 4C attached, the clerk should enter and process the order pursuant to Rule 58 and Rule 77(d), SC Rules of Civil Procedure (i.e., the clerk should serve notice of entry of the judgment by mail or provide the attorneys with copies of the signed order by other means).
4. The “Information for the Judgment Index” section should be completed when the judgment affects title to real or personal property or if any amount should be enrolled. In the “Judgment in Favor of” column, enter the name of the party to whom the judgment is awarded. In the “Judgment Against” column, enter the name of the person to whom the judgment is against. The judgment amount to be enrolled should be noted in the “Judgment Amount” column. As necessary, describe any property referenced in the order if it is to be enrolled in the judgment index. If there is no judgment information to enroll, indicate “N/A” in one of the boxes in this section of the form.
5. To enter information to accommodate multiple parties, additional Form 4Cs may be used as necessary. Additional space may be inserted on the form as necessary.
6. The section “For the Clerk of Court Office Use Only” should be completed by the clerk as it has been with the previous version of Form 4.
7. If the matter is on appeal to the Circuit Court, then the parties on the form should be changed from Plaintiff and Defendant to Appellant and Respondent.
8. If an arbitrator prepares an order after arbitration, the arbitrator should strike through “Circuit Court Judge” and indicate “Arbitrator” in the signature block.

9. If a Special Circuit Court Judge, Master in Equity, or Special Referee prepares an order after hearing a Circuit Court matter, then he or she should strike through the title “Circuit Court Judge” below the signature line and indicate the appropriate title.
10. When an Order of Foreclosure is filed, neither the parties or debt owed should be listed in the Information for the Judgment Index Section, unless the foreclosure order specifically requires entry of the full judgment amount before the foreclosure sale, pursuant to Section 29-3-650 of the SC Code.
11. If the deficiency judgment is waived in a Foreclosure action, indicate N/A in the “Judgment Amount To Be Enrolled” box.
12. Foreclosure actions should be ended by the Clerk of Court upon receipt of the Order of Foreclosure. Subsequent information, including deficiency judgments, can be added to the action after the case is ended. The Master in Equity should end the action in the MIE system upon the receipt of the Order of Foreclosure.
13. When judgment enrollment information is included in the Information for the Judgment Index Section (for example, when there is a deficiency judgment), only the parties who the judgment is for and against should be included in the Section. Subordinate parties and lienholders should not be included in the box if there is not a judgment amount specifically for or against them.
14. Form 4C is not required to be attached to Transcripts of Judgment and Confession of Judgment.



Beaufort Common Pleas

Case Caption: Gerald Viglione Niesar , plaintiff, et al VS Christine Nemeth

Case Number: 2025CP0700873

Type: Order/Summary Judgment

So Ordered

s/Carmen T Mullen 2142

Electronically signed on 2025-12-31 10:47:45 page 15 of 15